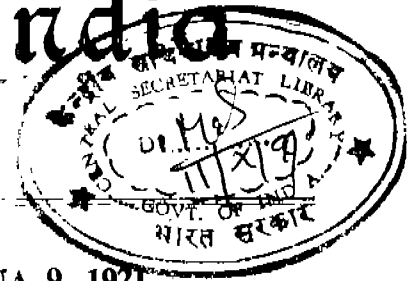




भारत का राजपत्र The Gazette of India

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सं. 31]

नई दिल्ली, शनिवार, जुलाई 31, 1999/भाद्रग 9, 1921

No. 31]

NEW DELHI, SATURDAY, JULY 31, 1999/SRAVANA 9, 1921

इस भाग में सिर्फ पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए संविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत और पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 9 जुलाई, 1999

का.आ. 2111.—केंद्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राजनीतिक (ए) विभाग की अधिसूचना सं. पी.एल.ए. 174/96/32, तारीख 3-12-1998 द्वारा असम राज्य सरकार की सहमति से और सिविल रूल (पीआईएल) सं. 2/98 में माननीय सुप्रीम कोर्ट उच्च न्यायालय के तारीख 17-11-1998 के आदेश के अनुसार, दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का, गोलाघाट पुलिस थाना, गोलाघाट (असम) के मामले एफआईआर सं. 184/96, तारीख 7-5-1996 के, आयुध अधिनियम, 1959 की धारा 27 और विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम,

2146 GI/99—1

(4765)

1967 की धारा 10/13 के साथ पठित भारतीय दण्ड संहिता, 1860 की धारा 302/395/427/120घ के अधीन दंडनीय अपराधों और ऊपर वर्णित अपराध के संबंध में या उनसे संसक्त प्रयत्न, दुष्प्रेरण और षड्यंत्र के संबंध में और जैसे ही संभव होकर अनुक्रम में किए गए या उन्हीं तथ्यों से उद्भूत होने वाले किसी अन्य अपराध या अपराधों के अन्वेषण के लिए, विस्तार संपूर्ण असम राज्य पर करती है।

[सं. 228/39/99—ए.पी.डी.-II]

हरी सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSION

(Department of Personnel & Training)

New Delhi, the 9th July, 1999

S.O. 2111.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Assam vide Political (A) Department

Notification No. PLA.17/96/32 dated 3-12-1998 and as per the order dated 17-11-1998 of the Hon'ble High Court, Guwahati in C.V.I Rule (PIL) No. 2/98, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Assam for the investigation of offences punishable under sections 302/395/327/120B of the Indian Penal Code, 1860 read with Section 27 of the Arms Act, 1959 and section 10/13 of Unlawful Activities (Prevention) Act, 1967 of case FIR No. 184/96 dated 7-5-1996 of Golaghat Police Station Golaghat (Assam) and attempt, abetment and conspiracy in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/39/99-AVD.II]
HARI SINGH, Under Secy.

आदेश

नई दिल्ली, 12 जुलाई, 1999

का.आ. 2112.—केन्द्रीय सरकार दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (अधिनियम सं. 25/1946) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अरुण अस्म राज्य सरकार के राजनीतिक (क) विभाग (सतर्कता स्कंध) की दिनांक 8-12-98 की अधिसूचना सं. पी.एल.सं. (V) 2/97/65 द्वारा प्राप्त सहमति से भ्रष्टाचार निवारण अधिनियम, 1988 तथा किसी अन्य कानून के तहत दंडनीय अपराधों और अस्म राज्य सहकारी कृषि एवं ग्रामीण विकास बैंक लि. (ए. एस. सी. ए. ग्रार. डी. बैंक) में बरती गई कथित वित्तीय अनियमितताओं जिनके परिणामस्वरूप कई करोड़ रूपयों का घोटाला हुआ और जिसमें बहुत से गैर-सरकारी व्यक्ति साधारण व्यक्ति और कुछ एस्काई बैंक के कर्माचारी संलिप्त थे, के संबंध में उन्हीं तथ्यों में उद्भूत मामला संबंधित रूप में किए गए कथित अपराधों से संबंधित अथवा ससम्बन्ध प्रयत्नों, दृष्टिकोणों और पद्धतियों या अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिताओं का विस्तार संपूर्ण अस्म राज्य के संबंध में करती है।

[सं. 228/27/97-ए.वी.डी.-II]
हरि सिंह, अवर सचिव

ORDER

New Delhi, the 12th July, 1999

S.O. 2112.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Assam vide Political (A) Department (Vigilance Cell) Notification No. PLA(V)2/97/65 dated 8-12-1998, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Assam for investigation of offences punishable under the Prevention of Corruption Act, 1988 and any other law and attempt, abetment and conspiracy in relation to or in connection with the said offences committed in course of the same transaction arising out of the same facts relating to alleged financial irregularities in the Assam State Cooperative Agriculture and Rural Development Bank Limited (ASCARD Bank) resulting in scam of several crores of rupees involving many non-officials, private persons and some officials of the ASCARD Bank.

[No. 228/27/97-AVD.II]
HARI SINGH, Under Secy.

नई दिल्ली, 12 जुलाई, 1999

का.आ. 2113.—केन्द्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केरल उच्च न्यायालय एरनाकुलम में केन्द्रीय अन्वेषण ब्यूरो के रिटर्नर काउंसिल श्री के.पी. सतीसन अधिवक्ता, एरनाकुलम को केरल उच्च न्यायालय में दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित मामलों में उद्भूत अभियोजन, अपीलें, पुनरीक्षणों अथवा अन्य कार्यवाहियों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/07/99-ए.वी.डी.-II]

हरि सिंह, अवर सचिव

New Delhi, the 12th July, 1999

S.O. 2113.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Sh. K. P. Satheesan, Advocate, Ernakulam, a Retainer Counsel of Central Bureau of Investigation in the Kerala High Court at Ernakulam as Special Public Prosecutor for the conducting prosecution, appeals, revisions or other proceedings arising out of the cases investigated by the Delhi Special Police Establishment in the Kerala High Court.

[No. 225/07/99-AVD.II]
HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 10 नवम्बर, 1998

(आयकर)

का.आ. 2114.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "आयल कोऑर्डिनेशन कमेटी", नई दिल्ली को कर निर्धारण वर्ष 1998-99 से 2000-2001 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारित इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यथा उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारित उपर-उल्लिखित कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि के रूप

में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान में भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार में प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो और ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ।

[अधिसूचना सं. 10743/फा.सं. 197/49/98-आयकर नि.-I]

समर भद्र, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 10th November, 1998

(INCOME-TAX)

S.O. 2114.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Oil Co-ordination Committee", New Delhi for the purpose of the said sub-clause for the assessment years 1998-99 to 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10743/F. No. 197/49/98-ITA-I]

SAMAR BHADRA, Under Secy.

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 24 मार्च, 1999

का.आ. 2115 :—आयकर नियम, 1962 के नियम 23क के साथ पठित आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय प्रत्यक्ष कर बोर्ड एतद्वारा कर निर्धारण वर्ष

1999-2000, 2000-2001 और 2001-2002 के लिए उपर्युक्त धारा के प्रयोजनार्थ "श्री सत्यार्थ इंस्टीट्यूट आफ हायर लर्निंग, बंगलोर" को अनुमोदित करता है ।

बशर्त कि सोसायटी आयकर नियम, 1962 के नियम 23क के साथ पठित आयकर अधिनियम, 1961 की धारा 10 के खंड (23ग) के उपखंड (iv) के उपबंधों के अनुरूप हो और उनका अनुपालन करती हो ।

[अधिसूचना सं. 10837/फा.सं. 197/1/99-आईटीए-I]

समर भद्र, अवर सचिव

(Central Board of Direct Taxes)

New Delhi, the 24th March, 1999

S.O. 2115.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), read with rule 2CA of the Income-tax Rules, 1962, the Central Board of Direct Taxes hereby approves "Sri Sathya Sai Institute of Higher Learning, Bangalore" for the purpose of the said section for the assessment years 1999-2000, 2000-2001 and 2001-2002.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961, read with rule 2CA of the Income-tax Rules, 1962.

4767--4782 FINAL Rdg.

SAMAR BHADRA, Under Secy.

नई दिल्ली, 28 मई, 1999

(आय-कर)

का.आ. 2116 :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "सोमायटी फोर सांवस टू वॉलन्टरी एजेंसीज" को कर निर्धारण वर्ष 1998-99 से 2000-2001 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संवयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

- (ii) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान में भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारितों के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10941/फा.सं. 197/43/99-आ.क.नि. I]

समर भद्र, अवर सचिव

New Delhi, the 28th May, 1999

(INCOME-TAX)

S.O. 2116.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Society for Service to Voluntary Agencies, Pune" for the purpose of the said sub-clause for the assessment years 1998-99 to 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10941/F. No. 197/43/99-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 16 जून, 1999

(आयकर)

का.आ. 2117:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "कलकत्ता जौरोएसट्रियन कम्युनिटीज रीलजीअस एण्ड चैरिटी फण्ड्स, कलकत्ता" को कर-निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निर्माणाखत शर्तों के अधीन रहने हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारित इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका

संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

- (ii) कर-निर्धारित उपर-उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (ज्वेयर-जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारितों के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10959/फा.सं. 197/50/99-आयकर नि-I]

समर भद्र, अवर सचिव

New Delhi, the 16th June, 1999

(INCOME-TAX)

S.O. 2117.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Calcutta Zoroastrian Community's Religious and Charity Funds, Calcutta" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10959/F. No. 197/50/99-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 16 जून, 1999

(आय कर)

का.आ. 2118.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “श्री आनन्दपुर ट्रस्ट नई दिल्ली” को कर-निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अध्वर्धन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई ;
- (ii) कर-निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों को किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वेलर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से (भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ।

[अधिसूचना सं. 10960/फा. सं. 197/41/99-आ.क.नि. I]
समर भद्र, अवर सचिव

New Delhi, the 16th June, 1999

(INCOME-TAX)

S.O. 2118.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies “Shri Anandpur Trust, New Delhi” for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period

during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10960/F. No. 197/41/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 16 जून, 1999

(आय कर)

का.आ. 2119.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा “वेस्ट बंगाल लेबर वेलफेयर बोर्ड, कलकत्ता” को कर-निर्धारण वर्ष 1995-96 से 1997-98 तक के लिए निम्नलिखित शर्तों के अध्वर्धन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (ii) कर-निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों को किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वेलर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ।

अधिसूचना सं. 10961/फा. सं. 197/55/99-आ.क.नि. I]
समर भद्र, अवर सचिव

New Delhi, the 16th June, 1999

(INCOME-TAX)

S.O. 2119.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "West Bengal Labour Welfare Board, Calcutta" for the purpose of the said sub-clause for the assessment years 1995-96 to 1997-98 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10961/F. No. 197/55/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 17 जून, 1999

(आयकर)

का.प्रा. 2120.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23C) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "पिरोजशा गोदरेज फाउण्डेशन, मुम्बई" को कर निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उप खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिता उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यता उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है।
- (ii) कर निर्धारिता ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेण नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिनाम ही, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों को प्राप्त के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखापुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 10964/का. सं. 197/51/99-आ.क.नि. I]

समर भद्र, अव्वर सचिव

New Delhi, the 17th June, 1999

(INCOME-TAX)

S.O. 2120.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Pirojsha Godrej Foundation, Mumbai" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established.
- (ii) the assessee will not invest or deposit the funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10964/F. No. 197/51/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 5 जूलाई, 1999

(आयकर)

का.प्रा. 2121.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23C) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "मुख्य मंत्री राहत कोष, महाराष्ट्र" को कर-निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त उप-खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिता उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है—

(ii) कर निर्धारिणी ऊपर उल्लिखित कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हों, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10987/फा. सं. 197/49/99-आ.क.नि. I]

समर भद्र, अवसर सचिव

New Delhi, the 5th July, 1999

(INCOME-TAX)

S.O. 2121.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Chief Minister's Relief Fund, Maharashtra" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10987/F. No. 197/49/99-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 5 जुलाई, 1999

का. आ. 2122.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "कृष्णामूर्ति फाउंडेशन, इंडिया,

चेन्नई" को कर-निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहने हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है ; अर्थात् :—

- (1) कर-निर्धारिणी उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उक्त उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (2) कर-निर्धारिणी ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर-निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 10989/फा. सं. 197/69/99—

आ. क. नि. I]

समर भद्र, अवसर सचिव

New Delhi, the 5th July, 1999

(INCOME-TAX)

S.O. 2122.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Krishnamurthi Foundation India, Chennai" for the purpose of the said sub-clause for the assessment years, 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee

and separate books of accounts are maintained in respect of such business.

[Notification No. 10989/F. No. 197/69/99-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 7 जुलाई, 1999

(आयकर)

का. आ. 2123.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उप-खण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "स्वदेशी जागरण फाउंडेशन 60, नार्थ एवेन्यू, नई दिल्ली" को कर-निर्धारण वर्ष 1998-99 से 2000-2001 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (1) कर-निर्धारिता उसकी आय का हस्तेमाल अथवा उसकी आय का हस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (2) कर निर्धारिता ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक वृंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (ज्वेल्स अलाइव, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वच्छिन्न अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जगा नहीं करवा सकेगा ;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 10993/का. सं. 197/67/99—

आ. क. नि.-I]

समर भद्र, अवर सचिव

New Delhi, the 7th July, 1999

(INCOME-TAX)

S.O. 2123.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Swadeshi Jagran

Foundation, 60, North Avenue, New Delhi-110001" for the purpose of the said sub-clause for the assessment years 1998-99 to 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established,
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10993/F. No. 197/67/99-ITA-I]

SAMAR BHADRA, Under Secy.

(राजस्व विभाग)

केन्द्रीय उत्पाद-शुल्क आयुक्त का कार्यालय

मदुरै, 8 जुलाई, 1999

सं. 4/99-सीमा शुल्क (एन.टी.)

का. आ. 2124.—सीमा शुल्क अधिनियम 1962, धारा 9 जो भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के अधिसूचना सं. 33/94-सीमा शुल्क (एन.टी.) दिनांक 1-7-94 के साथ पठित, द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं एतद्वारा तमिलनाडु राज्य के शिवगंगा जिला, शिवगंगा तालूका के "पैयूर पिल्लैवयल" गांव को सीमा शुल्क अधिनियम 1962 (1962 का 52) के अंतर्गत शत प्रतिशत निर्यातानुमुख उपक्रम स्थापित करने हेतु अधिसूचित करता हूँ।

[फाईल. सी. सं. 4/16/59/99-टी. 1]

वे. परशुरामन, आयुक्त

(Department of Revenue)

OFFICE OF THE COMMISSIONER OF
CENTRAL EXCISE

Madurai, the 8th July, 1999

No. 4/99-CUSTOMS (NT)

S.O. 2124.—In exercise of the powers conferred on me under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT) dated 1st July, 1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare "PAIYOOR PILLAIYAYAL Village", Sivaganga Taluk, Sivaganga District in the State of Tamilnadu to be a warehousing station under the Customs Act, 1962 (52 of 1962) for the purpose

of setting up of 100 per cent Export Oriented Undertaking.

[File C. No. IV/16/59/99-T. 1]

K. PARASURAMAN, Commissioner.

(सेन्ट्रल इकोनामिक इन्टेलीजेन्स ब्यूरो)

(कोफेपोसा यूनिट)

आदेश

नई दिल्ली, 14 जुलाई, 1999

का. आ. 2125.—अतः संयुक्त सचिव, भारत सरकार जिन्हें विदेशी मुद्रा संरक्षण और तरकरी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उप-धारा (1) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उप-धारा के अधीन आदेश फाइल सं. 673/54/97-सी. यू. एस.-VIII, दिनांक 17-7-97 जारी किया और यह निर्देश दिया कि श्री राजू तनेजा पता : सुपुत्र श्री एम. आर. तनेजा 25/33, वेस्ट पटेल नगर, नई दिल्ली को निरुद्ध कर लिया जाए और तिहाड़ कारागार दिल्ली में अभिरक्षा में रखा जाए जिससे कि उन्हें भविष्य में चर्चों की तरकरी करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपा रहा है जिससे कि यह आदेश निष्पादित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुनिस आयुक्त, दिल्ली के सम्मुख उपस्थित हो।

[फा. सं. 673/54/97-सी. यू. एस.-VIII]

एम. एस. नेगी, अवसर सचिव

(Central Economic Intelligence Bureau)

(COFEPOSA UNIT)

ORDER

New Delhi, the 14th July, 1999

S.O. 2125.—Whereas the Joint Secretary to the Government of India specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/54/97-Cus. VIII dated 17th July, 1997 under the said sub-section directing that Shri Raju Taneja, S/o Shri M. R. Taneja, 25/33, West Patel Nagar, New Delhi be detained and kept in custody in the Tihar Jail, Delhi with a view to preventing him from smuggling goods in future.

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2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or has been concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Delhi within 7 days of the publication of this order in the official Gazette.

[F. No. 673/54/97-Cus. VIII]

M. S. NEGI, Under Secy.

नई दिल्ली, 16 जुलाई, 1999

(आयकर)

का. आ. 2126.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "राष्ट्रीय ग्रामीण विकास निधि गवाहाटी (ग्राम)" को कर निर्धारण वर्ष 1995-1996 से 1996-97 तक के लिए निम्नलिखित शर्तों के अधीन रहने हुए उक्त उप-खण्ड के प्रयोजनार्थ अधिसूचना करती है, अर्थात् :—

(1) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;

(2) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक दंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिगत, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 11000/फा. सं. 197/62/99-

आ. क. नि. I]

समर भद्र, अवसर सचिव

New Delhi, the 16th July, 1999

(INCOME-TAX)

S.O. 2126.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Rashtriya Gramin Vikas Nidhi, Guwahati (Assam)" for the purpose of the said sub-clause for the assessment years 1995-96 to 1996-97 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11000/F. No. 197/62/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 16 जुलाई, 1999

(आयकर)

का.आ. 2127.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "नेशनल ग्रामिण विकास निधि, गुवाहाटी, असम" को कर निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिता उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संकलन पर्याप्त तथा अनन्यथा उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (ii) कर निर्धारिता ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जोवर, जवाहिरान, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रखा-रखाव में स्वैच्छिक अंशदान से भिन्न) का

निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिता के उद्देश्यों को प्राप्त के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 11001/फा.सं. 197/61/99-आ.का.नि. I]

समर भद्र, अवर सचिव

New Delhi, the 16th July, 1999

(INCOME-TAX)

S.O. 2127.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "National Association for the Blind, Mumbai" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11001/F. No. 197/61/99-ITA II]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 16 जुलाई, 1999

(आयकर)

का.आ. 2128.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "बैसवा समिति, बेंगलूर" को कर निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित

शर्तों के अधीन रहते हुए उक्त उप-खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर निर्धारिती उपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक हंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखा जाती हों।

[अधिसूचना सं. 11002/फा.सं. 197/53/99-आ.क.नि-1]

समर भद्र, प्रवर सचिव

New Delhi, the 16th July, 1999

(INCOME TAX)

S.O. 2128.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Basava Samithi, Bangalore" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the

assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11002/F. No. 197/53/99-ITA-I]
SAMAR BHADRA, Under Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2129.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/24/99-सी. शु०-8 दिनांक 20-5-1999 की यह निर्देश जारी किया था कि श्री मोहम्मद फरीद, पुत्र श्री मोहम्मद उमेर, घर नं. 230, लिंघी चैटी गली, चेन्नई, पार्टनर, मै. फेयरवे और कं., प्रिंस पलाजा, बुकान नं. 14, 46, पैनथियन गली, ग्रैगमोर, चेन्नई-8 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, चेन्नई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमिशनर आफ पुलिस, चेन्नई के समक्ष हजरि हों।

[फा. सं. 673/24/99-सी. शु०-8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2129.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/24,99-Cus.VIII dated 20-5-1999 under the said sub-section directing that Shri Mohamed Fareed S/o Shri Mohamed Ummer, Residence: No. 230, Linghi Chetty Street, Chennai, Partner: M/s. Fairway and Co., Prince Plaza, Shop No. 14, No. 46, Pantheon Road, Egmore, Chennai-8 be detained and kept in custody in the Central Prison, Chennai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Chennai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/24/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2130.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/25/99-सी.शु.-8 दिनांक 20-5-1999 को यह निदेश जारी किया था कि श्री एम. ए. मोहमद अफसर, पुत्र श्री एम. मोहमद अली, घर नं. 219, लिंघी चैटी गली, चेन्नई, पार्टनर मै. : फेयरवे एण्ड नं., प्रिंस पलाजा, दुकान नं. 14, 46, पैन्थियन रोड, ऐगमोर, चेन्नई-8 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार चेन्नई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके ;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, चेन्नई के समक्ष हाजिर हों ।

[फा. सं. 673/25/99-सी. शु०-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2130.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/25/99-Cus.VIII dated 20-5-1999 under the said sub-section directing that Shri M. A. Mohamed Afsar S/o Shri S. Mohamed Ali, Residence: No. 219, Linghi Chetty Street, Chennai; Partner; M/s. Fairway Co., Prince Plaza, Shop No. 14, No. 46, Pantheon Road, Egmore, Chennai-8 be detained and kept in custody in the Central Prison, Chennai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange ;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed ;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Chennai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/25/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2131.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधि-

नियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/29/99-सी. शु.-8 दिनांक 14-5-1999 को यह निदेश जारी किया था कि श्री चिगन भाई हरजीवनदास कपाड़िया उर्फ जयन्ती भाई कपाड़िया उर्फ जयन्तीलाल, 10, उत्तम पार्क सोसाइटी, कैलिज रोड, नादियाद को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, अहमदाबाद में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संवर्धन के प्रतिकूल कार्य करने से रोका जा सके ।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, अहमदाबाद के समक्ष हाजिर हों ।

[फा. सं. 673/29/99-सी. शु०-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2131.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974), issued order F. No. 673/29/99-Cus.VIII dated 14-5-1999 under the said sub-section directing that Shri Chimanbhai Harjivandas Kapadia @ Jayantibhai Kapadia @ Jayantilal be detained and kept in custody in the Central Prison, Sabarmati, Ahmedabad with a view to preventing him from acting in any manner prejudicial to the augmentation of foreign exchange ;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed ;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Ahmedabad within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/29/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2132.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/31/99-सी. शु.-8 दिनांक 13-5-1999 को यह निदेश जारी किया था कि श्री अनवर इकबाल कशमीरी, कमरा नं. 77, तीसरी मंजिल, कशमीरी मंजिल, 167/169, 1 चिन्मयनन्दर मंडक, जे. बी. शाह

मार्ग, डोंगरी, मुम्बई-400009 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके।

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हो।

[फा. सं. 673/31/99-सी. शुं-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2132.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/31/99-Cus.VIII dated 13-5-1999 under the said sub-section directing that Shri Anwar Iqbal Kashmiri, Room No. 77, 3rd Floor, Kashmiri Manzil, 167/169, 1st Chinch Bunder Road (J. B. Shah Marg), Dongri, Mumbai-400009 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/31/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2133.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/32/99-सी. शुं-8 दिनांक 13-5-1999 को यह निदेश जारी किया था कि श्री इसमाइल अहमद कश्मीरी, कमरा नं. 84, चौथी तल; कश्मीरी मंजिल, 1, चिन्चबुन्दर रोड जे. बी. शाह रोड, सामने मोहम्मद अली रोड, मुम्बई-400009 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3 अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हो।

[फा. सं. 673/32/99-सी. शुं-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2133.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/32/99-Cus.VIII dated 13-5-1999 under the said sub-section directing that Shri Ismail Ahmed Kashmiri, Room No. 84, 4th Floor, Kashmiri Manzil, 1st Chinchbunder Road, J. B. Shah Marg, Opp. Mohd. Ali Road, Mumbai-400009 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/32/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2134.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/33/99-सी. शुं-8 दिनांक 13-5-1999 को यह निदेश जारी किया था कि श्री इजामुद्दीन, शेख साजाद, सुलतान भवन, पहला तल, कमरा नं. 6 एस. एं. चोरानी मार्ग, मुम्बई-400003 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हो।

[फा. सं. 673/33/99-सी. शु.-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2134.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/33/99-Cus.VIII dated 13-5-1999 under the said sub-section directing that Shri Issamuddin Shaikh Sajjad, Sultan Building, 1st Floor, Room No 6, M. A. Chottani Marg, Mumbai-400003 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/33/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2135.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/34/99-सी. शु.-8 दिनांक 13-5-1999 को यह निदेश जारी किया था कि श्री सोहेल अहमद कश्मीरी, कमरा नं. 84, चौथी मंजिल, कश्मीरी मंजिल, 1, चिन्चबुंदर रोड, जे. बी. शाह रोड, सामने मोहम्मद अली रोड, मुम्बई-400009 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अधिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हो।

[फा. सं. 673/34/99-सी. शु.-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2135.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974), issued order F. No. 673/34/99-Cus. VIII dated 13-5-1999 under the said sub-section directing that Shri Sohail Ahmed Kashmiri, Room No. 84, 4th Floor, Kashmiri Manzil, 1st Chinchbunder Road, J. B. Shah Road, Opp. Mohd. Ali Road, Mumbai-400009 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/34/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का. आ. 2136.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/36/99-सी. शु.-8 दिनांक 24-5-1999 को यह निदेश जारी किया था कि श्री रियाज अहमद कश्मीरी, 51-52, दूसरी मंजिल, कश्मीरी मंजिल, 1, चिन्चबुंदर रोड, खडक, मुम्बई-400009 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अधिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हो।

[फा. सं. 673/36/99-सी. शु.-8]

प्रकाश चन्दरा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2136.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/36/99-Cus.VIII dated 24-5-1999 under the said sub-section directing that Shri Riyaz Ahmed Kashmiri, 51-52, 2nd Floor, Kashmiri Manzil, 1st Chinchbunder Road, Khadak, Mumbai-400009 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/36/99-Cus.VIII]
PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का.आ. 2137:—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/37/99-सी.गु.-8 दिनांक 20-7-99 को यह निर्देश जारी किया था कि श्री जावेद अहमद मिस्त्री, 23/24, दूसरी मंजिल, श्रीरामभाई बिल्डिंग, 124/126, एम. ई. सरंग गली, सामने मेमनवाड़ा रोड, मुम्बई-400003 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हों।

[फा. सं. 673/37/99-सी.गु.-8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2137.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/37/99-Cus.VIII dated 24-5-1999 under the said sub-section directing that Shri Javed Ahmed Mistry, 23/24, 2nd Floor, Shrinbhai Building, 124/126, M. E. Sarang Street, Opposite Memonwada Road, Mumbai-400003 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person

to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/37/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का.आ. 2138:—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/38/99-सी.गु.-8 दिनांक 24-5-1999 को यह निर्देश जारी किया था कि श्री रशीद अहमद मिस्त्री नर्फ रशीद अब्दुल कचो, 23/24, एम. एच. नं. 122-124, श्रीरामभाई बिल्डिंग, एम. ई. सरंग गली, मुम्बई-400003 (ii) कमरा नं. 30, दूसरी मंजिल, श्रीरामभाई बिल्डिंग, 124/126, एम. ई. सरंग गली, मुम्बई-400003 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मुम्बई के समक्ष हाजिर हों।

[फा. सं. 673/38/99-सी.गु.-8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2138.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/38/99-Cus.VIII dated 24-5-1999 under the said sub-section directing that Shri Rashid Ahmed Mistry @ Rashid Abdul Kutchi, Address : (i) 23/24, M. H. No. 122-124, Shrinbhai Building, M. E. Sarang Street, Mumbai-400003; (ii) Room No. 30 2nd Floor, Shrinbhai Building, 124/126, M. E. Sarang Street, Mumbai-400003 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person

to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/38/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का.आ. 2139.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/39/99-सी.शु.-8 दिनांक 24-5-1999 को यह निदेश जारी किया था कि श्री इकबाल, फ्लैट नं. 505, कपाड़िया कम्प्लेक्स, संग्रं गली मुम्बई-400003 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मुम्बई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संरक्षण के प्रतिकूल कार्य करने से रोका जा सके;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस मुम्बई के समक्ष हाजिर हों।

[फा. सं. 673/39/99-सी.शु.-8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2139.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/39/99-Cus.VIII dated 24-5-1999 under the said sub-section directing that Shri Iqbal, Flat No. 505, Kapadia Complex, Sarang Street, Mumbai-400003 be detained and kept in custody in the Central Prison, Mumbai with a view to preventing him from acting in any manner prejudicial to the conservation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Mumbai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/39/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का.आ. 2140.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम,

1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/51/99-सी.शु.-8 दिनांक 7-6-1999 को यह निदेश जारी किया था कि श्री श्रीम. मोहम्मद अली, पुत्र सर्वे मोहम्मद अब्दुला (i) नं. 66/1, थचनकोलाई गली, मधुकर-614903, जिला तनजौर, (ii) नं. 17, अत्तुमान्धिकरा गली, ममनवुत्तवाडी, थन्जावूर, (iii) नं. 26, पन्थाडी, 3 स्ट्रीट पहली मंजिल, मादुराई को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मादुराई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संवर्धन के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमीशनर आफ पुलिस, मादुराई के समक्ष हाजिर हों।

[फा. सं. 673/51/99-सी.शु.-8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2140.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/51/99-Cus.VIII dated 7-6-1999 under the said sub-section directing that Shri M. Mohamed Ali S/o Late Mohamed Abdullah, Address: (i) No. 66/1, Thatchankolai Street, Madukkur-614903, Tanjore District; (ii) No. 17, Attumandhaikara Street, Manambuchavadi, Thanjavur; (iii) No. 26, Panthadi, 3rd Street, First Floor, Madurai be detained and kept in custody in the Central Prison, Madurai with a view to preventing him from acting in any manner prejudicial to the augmentation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Madurai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/51/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

आदेश

नई दिल्ली, 20 जुलाई, 1999

का.आ. 2141.—भारत सरकार के संयुक्त सचिव ने जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन आदेश फा. सं. 673/52/99-सी.शु.-8 दिनांक 7-6-1999 को यह निदेश जारी किया था कि श्री बी. चन्द्रा-मोहन, उर्फ सी. मोहन, पुत्र सर्वे, वैधिलियलिंगम बिल्डे,

4/630, सेंटिलनाथन तहसीली, सोलदार नगर, के पास अम्नानगर, मदुराई-20 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार, मादुराई में अभिरक्षा में रखा जाए ताकि उसे भविष्य में विदेशी मुद्रा के संवर्धन के प्रतिकूल कार्य करने से रोका जा सके।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर कमिश्नर आफ पुलिस मदुराई के समक्ष हाजिर हों।

[फा. सं. 673/52/99-सी. शु. -8]

प्रकाश चन्द्रा, उप सचिव

ORDER

New Delhi, the 20th July, 1999

S.O. 2141.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/52/99-Cus.VIII dated 7-6-1999 under the said sub-section directing that Shri V. Chandramohan @ C. Mohan S/o Late Vaithalingam, Pillai, 4/630, Senthilnathan Street, Tahsilidar Nagar, Near Anna Nagar, Madurai-20 be detained and kept in custody in the Central Prison, Madurai with a view to preventing him from acting in any manner prejudicial to the augmentation of foreign exchange;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the powers conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Madurai within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/52/99-Cus.VIII]

PARKASH CHANDRA, Dy. Secy.

नई दिल्ली, 21 जुलाई, 1999

(आयकर)

का.आ. 2142.—आयकर अधिनियम, 1961 की धारा 10(23 छ) की व्याख्या ग (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय प्रत्यक्ष कर बोर्ड एतद्वारा अब-संरचनात्मक सुविधा के रूप में इनलैंड कनटेनर डिपो (आईसीडी) और कनटेनर फ्रेट स्टेशन (सीएफएस) को अधिसूचित करता है।

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बतते कि ऐसे स्थान समि-शुल्क अधिनियम, 1962 के अन्तर्गत कनटेनर फ्रेट स्टेशन सहित इनलैंड कनटेनर डिपो के रूप में अधिसूचित किए जाने हैं।

[अधिसूचना सं० 11003/फा. सं. 205/140/99-आई.

टी.ए. -II]

कमलेश सी. वाष्णेय, अवसर सचिव

New Delhi, the 21st July, 1999

(INCOME-TAX)

S.O. 2142.—In exercise of the powers conferred by Explanation C(i) of section-10(23G) of the Income tax Act, 1961, the Central Board of Direct Taxes hereby notifies Inland container Depot (ICD) and Container Freight Station (CFS) as infrastructure facility.

2. Provided that such places are notified as Inland Container Depot including Container Freight Stations under the Custom Act, 1962.

[Notification No. 11003/F. No. 205/140/99/ITA.II]

KAMLESH C. VARSHNEY, Under Secy.

नई दिल्ली, 23 जुलाई, 1999

(आय-कर)

का.आ. 2143.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "क्रैडोलिक बिगिप्स कांफेन्स आफ इंडिया नई दिल्ली" को कर निर्धारण वर्ष 1996-1997 से 1998-1999 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उप-खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

(i) कर-निर्धारिती उसकी आय का हस्तेमान अथवा उसकी आय का हस्तेमान करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

(ii) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ठंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु के रूप में प्राप्त तथा रख-रखाव में स्वेच्छक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की

प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 11006/फा.सं. 197/56/99-आ.क.नि. I]

समर भद्र, अवर सचिव

New Delhi, the 23rd July, 1999

(INCOME-TAX)

S.O. 2143.—In exercise of the powers conferred by sub-clause (V) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Catholic Bishops' Conference of India, New Delhi" for the purpose of the said sub-clause for the assessment years 1996-97 to 1998-99 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11006/F. No. 197/56/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 23 जुलाई, 1999

(आयकर)

का.आ. 2144.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "द सोसाइटी फार प्रमोशन आफ कैथोलिक्स डेवलपमेंट, नई दिल्ली" को कर निर्धारण वर्ष 1999-2000 से 2001-2002 तक के लिए निम्नलिखित शर्तों के अधीन रखते हुए उक्त उप-खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिता उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

(ii) कर निर्धारिता ऊपर उल्लिखित कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक दृंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख रखाव में स्वीच्छक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार में प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 11007/फा.सं. 197/58/99-आ.क.नि-I]

समर भद्र, अवर सचिव

New Delhi, the 23rd July, 1999

(INCOME-TAX)

S.O. 2144.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "The Society for Promotion of Waste Lands Development, New Delhi" for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11007/F. No. 197/58/99-ITA-I]
SAMAR BHADRA, Under Secy.

नई दिल्ली, 23 जुलाई, 1999

(आयकर)

का.आ. 2145.—आय कर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (IV) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "टैगोर सोसाइटी फार रुरल डेवलपमेंट, कलकत्ता" को कर निर्धारण वर्ष 1997-98 से 1999-2000 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिन के लिए इसकी स्थापना की गई है।
- (ii) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा न करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कार्य के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 11008/फा.सं. 197/88/97-आ.क.नि.-I]

समर भद्र, अवर सचिव

New Delhi, the 23rd July, 1999

(INCOME-TAX)

S.O. 2145.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Tagore Society for Rural Development, Calcutta" for the purpose of the said sub-clause for the assessment years 1997-98 to 1999-2000 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions

received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11008/F. No. 197/88/97-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 23 जुलाई, 1999

(आयकर)

का.आ. 2146.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23 ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "एडल्ट ट्रेनिंग सेंटर (ट्रस्ट) फार दी ब्लाइण्ड अहमदाबाद" को कर निर्धारण वर्ष 1995-96 से 1997-1998 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (ii) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर, जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐ कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 11009/फा.सं. 197/36/98-आ.क.नि.-I]

समर भद्र, अवर सचिव

New Delhi, the 23rd July, 1999

(INCOME-TAX)

S.O. 2146.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Adult Training Centre (Trust) for the Blind, Ahmedabad" for the purpose of the said sub-clause for the assessment years 1995-96 to 1997-98 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 11009/F. No. 197/36/98-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 23 जुलाई, 1999

(आय-कर)

का.आ. 2147.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड 23-ग) के उपखण्ड (IV) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "सेन्टर फॉर एडवांस्ड स्ट्रेटिजिक स्टडीज पुणे" को कर निर्धारण वर्ष 1998-1999 से 2000-2001 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिणी उसकी आय का इस्तेमाल यथवा उसकी आय का इस्तेमाल करने के लिए उसकी निवेश पूर्णतया लाभ आयदा

उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;

- (ii) कर निर्धारिणी ऊपर उल्लिखित कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक हंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जैसे, जवाहरान, फर्नीचर अथवा किसी अन्य वस्तु, के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो, जब तक कि ऐसा कारोबार उक्त कर निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हैं।

[अधिसूचना सं. 11010/फा.स. 197/57/99-आ.क.नि.-1]

समर भद्र, अवर सचिव

New Delhi, the 23rd July, 1999

(INCOME TAX)

S.O. 2147.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Centre for Advanced Strategic Studies, Pune" for the purpose of the said sub-clause for the assessment years 1998-99 to 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11.

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

नई दिल्ली, 15 जुलाई, 1999

[Notification No. 11010/F. No. 197/57/99-ITA-I]
SAMAR BHADRA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

(सम्बन्ध एवं डी आर टी अनुभाग)

आदेश

नई दिल्ली, 31 मई, 1999

का. आ. 2148.—कर्नाटक उच्च न्यायालय के सिविल जज (सीनियर डिविजन) और इस समय डी आर टी बंगलूर के सचिव/रजिस्ट्रार के रूप में कार्यरत श्री वी. कान्थाराजू की सेवाएं, अतिरिक्त श्रम न्यायालय, हुबली में पीठासीन अधिकारी के रूप में तैनाती के लिए दिनांक 31-5-99 (अपराह्न) से कर्नाटक उच्च न्यायालय को सौंपी जाती हैं।

[एफ. सं. 17/3/95-डी आर टी]

बी. पी. भारद्वाज, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

(Corrd. & DRT Section)

ORDER

New Delhi, the 31st May, 1999

S.O. 2148.—The services of Shri V. Kantharaju, Civil Judge (Sr. Division) High Court of Karnataka and presently working as Secretary/Registrar, DRT, Bangalore are placed back at the disposal of High Court of Karnataka w.e.f. 31st May, 1999 (A.N.) for his posting as Presiding Officer, Addl. Labour Court, Hubli.

[F. No. 17/3/95-DRT]

V. P. BHARDWAJ, Under Secy.

का. आ. 2149.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है कि उक्त अधिनियम की धारा 9 के उपबंध वि फेडरल बैंक लि. पर 4 नवम्बर, 2000 तक की अवधि के लिए, जहां तक इसका संबंध चितारा गांव कोट्टाराक्कारा तालुक कोल्लम जिले में इसके द्वारा धारित 1 एकड़, तथा 90.5 सेट्स की भू-सम्पत्ति से है जिसकी सर्वेक्षण संख्याएं (i) 686 1/69 (ii) 712/1 ए/1215, 712/1ए/1218 तथा 712/1ए/729, (iii) 662/60/59 तथा (iv) 662/60/32 हैं, लागू नहीं होंगे।

[फा. सं. 15/8/99-बी ओ ए]

बी. ए. नारायणन, अवर सचिव

New Delhi, the 15th July, 1999

S.O. 2149.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India hereby declares that the provisions of Section 9 of the said Act shall not apply to the Federal Bank Ltd. for a period upto 4 November, 2000 in respect of property 1 acre & 90.5 cents bearing Survey Nos. (i) 686/189 (ii) 712/1A/1215, 712/1A/1218 and 712/1A/729 (iii) 662/60/59 and (iv) 662/60/32 held by it at Chitara Village, Kottarakkara Taluk, Kollam District.

[F. No. 15/8/99-BOA]

B. A. NARAYANAN, Under Secy.

वणिज्य मंत्रालय

(विदेश व्यापार महानिदेशालय)

(ई पी सी जी II अनुभाग)

नई दिल्ली, 15 जुलाई, 1999

का. आ. 2150—मै. जे. सी. टी. लि., होशियारपुर (पंजाब) को ई पी सी जी स्कैम के अन्तर्गत

पूजीगत माल के आयात के लिए 7,24,00,782 रु० के लिए आयात लाइसेंस सं. 01500005 दिनांक 6-5-95 मंजूर किया गया था।

2. फर्म ने उपर उल्लिखित लाइसेंस की विनियम नियंत्रण प्रयोजन प्रति की डुप्लीकेट प्रति जारी करने के लिए इस आधार पर आवेदन किया है कि लाइसेंस की मूल विनियम नियंत्रण प्रयोजन प्रति खो गई है/अस्थानस्थ हो गई है। आगे यह बताया गया है कि लाइसेंस की सीमाशुल्क विनियम प्रयोजन प्रति को सीमाशुल्क सदन, नई दिल्ली के साथ पंजीकृत कराया गया था और लाइसेंस के मूल्य को अंशतः उपयोग में लाया गया है।

3. अपने मत के समर्थन में लाइसेंसधारी ने नौटरी पब्लिक, दिल्ली के समक्ष विधिवत् शपथ लेकर स्टाम्प पेपर पर हलफनामा प्रस्तुत किया है। मैं तदनुसार सन्तुष्ट हूँ कि आयात लाइसेंस सं. 01500005 दिनांक 6-5-95 की मूल विनियम नियंत्रण प्रति फर्म द्वारा खो गई है/अस्थानस्थ हो गई है। आयात (नियंत्रण) आदेश, 1955 यथा संशोधित दिनांक 7-12-1955 की उप-धारा 9 (सी सी) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, मै. जे. सी. टी. लि., होशियारपुर को जारी उक्त मूल विनियम नियंत्रण प्रयोजन प्रति को निरस्त किया जाता है।

उक्त आयात लाइसेंस की डुप्लीकेट विनियम नियंत्रण प्रयोजन प्रति पार्टी को अलग से जारी की जा रही है।

[फा. सं. 01/36/021/173/ग. एम/96/ई पी सी जी-/
2/454]

के. चन्द्रामती, उप महानिदेशक, विदेश व्यापार

MINISTRY OF COMMERCE

(Directorate General of Foreign Trade)

(EPCG II SECTION)

New Delhi, the 15th July, 1999

S.O. 2150.—M/s. JCT Limited, Hoshiarpur (Punjab) were granted an Import Licence No. 01500005 dated 6th September, 1995 for Rs. 7,24,00,782 for import of capital goods under EPCC Scheme.

2. The firm has applied for issue of duplicate copy of Exchange Control Purpose copy of the above mentioned licence on the ground that original Exchange Control Purpose copy of the licence has been lost or misplaced. It has further been stated that the Customs purpose copy of the licence was registered with Cus-

toms House, ICD, New Delhi and the value of the licence has been utilised partially.

3. In support of their contention, the licensee has filed an Affidavit on stamped paper duly sworn in before a Notary Public, Delhi. I am accordingly satisfied that the original Exch. Control copy of the import licence No. 01500005 dt. 6-9-95 has been lost or misplaced by the firm. In exercise of powers conferred under Sub-Clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-95, as amended the said original Exch. Control Purpose copy No. 01500005 dt. 6-9-95 issued to M/s. JCT Limited, Hoshiarpur, is hereby cancelled.

4. The duplicate Exchange Control Purpose copy of the said licence is being issued to the partly separately.

[F. No. 01/36/021/173/AM/96/EPCG.II/454]

K. CHANDRAMATHI, Dy. Director General
of Foreign Trade

मानव संसाधन विकास मंत्रालय

(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 12 जुलाई, 1999

का.आ. 2151:—केन्द्रीय सरकार एनडू द्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10(4) के अनुसरण में भारतीय खेल प्राधिकरण के नेताजी सुभाष दक्षिणी केन्द्र, बेंगलूर के कार्यालय को जिनके कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[मि. सं. ई. 11011/5/99-हि. ए.]

जे. पी. सिंह, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Youth Affairs and Sports)

New Delhi, the 12th July, 1999

S.O. 2151.—In pursuance of Rule 10(4) of the Official Languages (Use for Official Purposes of the Union) Rule, 1976, the Central Government hereby notifies the Netaji Subhash Southern Centre, Bangalore of Sport Authority of India the staff whereof have acquired working knowledge of Hindi.

[F. No. E 11011/5/99-H.U.]

J. P. SINGH, Jr. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 14 जुलाई, 1999

का.आ. 2152-- .केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद से परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :--

उक्त प्रथम अनुसूची में,--

- (क) "मंगलोर विश्वविद्यालय" के मामले "मान्यताप्राप्त आयुर्विज्ञान अर्हता" के शीर्षक के अधीन स्तंभ में [जिसे इसमें इसके पश्चात् स्तंभ (2) कहा गया है], "डिप्लोमा इन डिर्मेटोलॉजी इन्क्लूडिंग विनियरल डिमोप एंड लिप्रोमा" प्रविष्टि और उससे संबंधित स्तंभ के अधीन "रजिस्ट्रीकरण के लिये संक्षेपाक्षर" शीर्षक [जिसे इसमें इसके पश्चात् स्तंभ (3) कहा गया है] के पश्चात् निम्नलिखित रखा जायेगा, अर्थात् :--

(2)

(3)

"डिप्लोमा इन आर्थोपीडिक्स"

डी. आर्थो

(यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब वह 10 सितम्बर, 1980 को या उसके पश्चात् मई, 1993 तक प्रदान की गई हो)"

- (ख) मणिपाल एकेडमी आफ हायर एजुकेशन के मामले स्तंभ (2) में "डाक्टर आफ मेडिसिन" (त्वचा और रक्त रोग) प्रविष्टि और उससे संबंधित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जायेगा, अर्थात् :--

(2)

(3)

"डिप्लोमा इन आर्थोपीडिक्स"

डी. आर्थो

(यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब वह 1 जून, 1993 को या उसके पश्चात् प्रदान की गई हो।)"

[सं.वी. 11015/8/99-एम ई(यूजी)]

एम.के. मिश्रा, डैस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 14th July, 1999

S. O. 2152. —In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consultation with the Medical Council of India hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule :--

- (a) against the "Mangalore University", in the column under heading 'Recognised Medical Qualification' (hereinafter referred to as column (2), after the entry "Diploma in Dermatology including Venereal Diseases

and Leprosy" and the entry relating thereto in the column under heading 'Abbreviation for Registration' (hereinafter referred to as column (3)), the following shall be inserted, namely :—

(2)	(3)
"Diploma in Orthopaedics	D. Ortho. (This shall be a recognised medical qualification when granted on or after 10th September, 1980 upto May, 1993)"
(b) against the "Manipal Academy of Higher Education" in column (2), after the entry "Doctor of Medicine Skin and Venereal Diseases" and the entry relating thereto in column (3), the following shall be inserted namely :—	
(2)	(3)
"Diploma in Orthopaedics	D. Ortho. (This shall be a recognised medical qualification when granted on or after 1st June, 1993)"
[No. V.11015/8/99-ME(UG)] S. K. MISHRA, Desk Officer	

जल संसाधन मंत्रालय

नई दिल्ली, 16 जुलाई, 1999

का. आ. 2153.—राष्ट्रपति, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और प्रवीण) नियम, 1965 के नियम 34 के साथ पठित नियम 9 के उपनियम (2), नियम 12 के उपनियम (2) में खंड (ख) और नियम 24 के उपनियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, और तारीख 25 अगस्त, 1990 की प्रकाशित भारत सरकार के जल संसाधन भूमिगत जल डेस्क मंत्रालय की अधिसूचना सं. का. आ. 2232, तारीख 1 अगस्त, 1990, को जहाँ तक उसका संबंध जल संसाधन मंत्रालय के अधीनस्थ कार्यालय केन्द्रीय भूमिगत जल बोर्ड के समूह "ख", समूह "ग" और समूह "घ" के पदों से है, उन बातों के सिवाए अधिकृत करते हुए जिन्हें अधिकरण से पहले किया गया है या करने का लोप किया गया है, यह निर्देश देने है कि इससे जवाबदारी अनुसूची के भाग 1, भाग 2, और भाग 3 के स्तंभ 1 में विनिर्दिष्ट केन्द्रीय भूमिगत जल बोर्ड का साधारण केन्द्रीय सेवा समूह "ख", समूह "ग" और समूह "घ" पदों की तादाद, स्तंभ 2 में विनिर्दिष्ट प्राधिकारी, नियुक्ति प्राधिकारी होंगे और स्तंभ 3 और स्तंभ 5 में विनिर्दिष्ट प्राधिकारी स्तंभ 4 में विनिर्दिष्ट शक्तियों के विषय में, क्रमशः अनुशासनिक प्राधिकारी और प्रवीण प्राधिकारी होंगे।

अनुसूची

भाग—1 साधारण केन्द्रीय सेवा, समूह "ख"

पद का वर्णन	विधायक प्राधिकारी	शास्त्रियों अधिरोपित करने के लिए मक्षम प्राधिकारी और उसके द्वारा अधिरोपित की जाने वाली शास्त्रियों (नियम 11 में दी गई मद संख्याओं के प्रति निर्देश से)	प्रवीण प्राधिकारी	
1	2	3	4	5
वैज्ञानिक पद (मंत्रालय)				
1. सहायक जल भूविज्ञानी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष केन्द्रीय भूमिगत जल बोर्ड	सभी	सचिव (जल संसाधन)
2. सहायक जल विज्ञानी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष केन्द्रीय भूमिगत जल बोर्ड	सभी	सचिव (जल संसाधन)
3. सहायक रसायनज्ञ	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष केन्द्रीय भूमिगत जल बोर्ड	सभी	सचिव (जल संसाधन)

1	2	3	4	5
4	कार्यालय सर्वेक्षक	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
5	सहायक कलाकार	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
6	ज्येष्ठमान चित्रकार	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
7	सहायक जलभूविज्ञानी/मौसम विज्ञानी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
8	सहायक भूभौतिक विज्ञानी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
9	पद जिनके वेतनमान का अधिकतम 9000 रु. से कम नहीं है इंजीनियरी पद (मुख्यालय)	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
10	सहायक इंजीनियर	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
11	भारसाधक वेधक	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
12	पद जिनके वेतनमान का अधिकतम 9000 रु. से कम नहीं है प्रशासनिक पद (मुख्यालय)	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
13	प्रशासनिक अधिकारी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
14	सहायक निदेशक (राजभाषा)	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
15	सहायक पुस्तकालय प्रीति सूचना अधिकारी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
16	ज्येष्ठ निजी सहायक	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
17	ज्येष्ठ हिन्दी अनुवादक	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
18	आशुलिपिक ग्रेड-1	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)
18क	पद जिनके वेतनमान का अधिकतम 9000 रु. से कम नहीं है।	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड	सभी सचिव (जल संसाधन)

भाग--II साधारण केन्द्रीय सेवा समूह "ग"

क्षेत्रीय कार्यालय

19	पद जिनका वेतनमान अधिकतम 4000 रु. से ऊपर है किंतु 9000 रु. से कम हो	क्षेत्रीय निदेशक	क्षेत्रीय निदेशक	सभी अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड
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मुख्यालय

20	सभी पद	निदेशक (प्रशासन) केन्द्रीय भूमिगत जल बोर्ड	निदेशक (प्रशासन) केन्द्रीय भूमिगत जल बोर्ड	सभी अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड
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1	2	3	4	5
भाग—III साधारण केन्द्रीय सेवा समूह “ब”				
मुख्यालय				
21. (क) क्षेत्र यूनिटों/कार्यालयों में सभी पद	अधीक्षण जल भूविज्ञानी	अधीक्षण जल भूविज्ञानी	सभी	क्षेत्रीय निदेशक केन्द्रीय भूमिगत जल बोर्ड
भाग—II—साधारण केन्द्रीय सेवा समूह “घ”				
(ख) प्रभाग में सभी पद	कार्यपालक इंजीनियर	कार्यपालक इंजीनियर	सभी	क्षेत्रीय निदेशक, केन्द्रीय भूमिगत जल बोर्ड
(ग) मुख्यालय के सभी पद	निदेशक (प्रशासन) / ज्येष्ठ प्रशासनिक अधिकारी	निदेशक (प्रशासन) / ज्येष्ठ प्रशासनिक अधिकारी	सभी	अध्यक्ष, केन्द्रीय भूमिगत जल बोर्ड

[सं. 10/2/97—सतर्कता]

सतपाल, उप सचिव व मुख्य सतर्कता अधिकारी

MINISTRY OF WATER RESOURCES

New Delhi, the 16th July, 1999

S.O. 2153.—In exercise of powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12 and sub-rule 1 of rule 24 read with rule 34 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in supersession of Notification of the Government of India in the Ministry of Water Resources Ground Water Desk S.O. 2232 dated the 1st August, 1990 and published on 25th August, 1990 and in so far as they relate to Group 'B' 'C' and 'D' posts of the Central Ground Water Board, a subordinate office of the Ministry of Water Resources, except as respects things done or omitted to be done before supersession, the President hereby directs that in respect of posts in General Central Service Groups 'B', 'C' and 'D' of the Central Ground Water Board, specified in column 1 of Parts I, II and III of the Schedule annexed hereto, the authorities specified in column 2 shall be Appointing Authority and authorities specified in columns 3 and 5 shall be the Disciplinary Authority and Appellate Authority respectively in regard to the penalties specified in column 4.

SCHEDULE

Description of post	Appointing Authority	Authority competent to impose penalties and which it may impose (with ref. to item nos. in rule 11)		Appellate Authority
		Authority	Penalties	
1	2	3	4	5
SCIENTIFIC POST (HEAD QUARTERS)				
1. Assistant Hydrogeologist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
2. Assistant Hydrologist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
3. Assistant Chemist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)

1	2	3	4	5
4. Office Surveyor	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
5. Assistant Artist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
6. Senior Cartographer	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
7. Assistant Hydrogeologist/meteorologist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
8. Assistant Geophysicist	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
9. Post having a scale of Pay maximum of which is not less than Rs. 9000	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
ENGINEERING POST (HEAD QUARTERS)				
10. Assistant Engineer	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
11. Driller-in-Charge	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
Post having a scale of pay maximum of which is not less than Rs. 9000	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
ADMINISTRATIVE POST (HEAD QUARTERS)				
13. Administrative Officer	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
14. Assistant Director (OL)	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary Water (Resources)
15. Assistant Library and Information Officer	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
16. Senior PA	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)

1	2	3	4	5
17. Senior Hindi Translator	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
18. Steno Gr-I	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)
18. (A) Post having a scale of pay maximum of which is not less than Rs. 9000	Chairman Central Ground Water Board	Chairman Central Ground Water Board	All	Secretary (Water Resources)

PART II—GENERAL CENTRAL SERVICE GROUP 'C'

FILED OFFICES

19. Post having a scale of pay with a maximum of over Rs. 4000 but less than Rs. 9000	Regional Director	Regional Director	All	Chairman Central Ground Water Board
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HEADQUARTERS

20. All Posts	Director (Administration) Central Ground water Board	Director (Administration) Central Ground water Board	All	Chairman Central Ground Water Board
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PART III—GENERAL CENTRAL SERVICE GROUP 'D'

HEADQUARTERS

21. (A) All posts in Regions/Units/Offices	Superintending Hydrogeologist	Superintending Hydrogeologist	All	Regional Director Central Ground Water Board
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PART IV—GENERAL CENTRAL SERVICE GROUP 'D'

(B) All posts in Divisions	Executive Engineer	Executive Engineer	All	Regional Director Central Ground Water Board
(C) All posts at Head-quarter	Director (Administration)/ Senior Administrative Officer	Director (Administration)/ Senior Administrative Officer	All	Chairman Central Ground Water Board

[No. 10/2/97-Vig.]

SAT PAL, Dy. Secy. and Chief Vigilance Officer

इस्पात एवं खान मंत्रालय

(खान विभाग)

नई दिल्ली, 21 जुलाई, 1999

का.प्र. 2154—पब्लिक प्रीमिसिस (एविकेशन आफ अनग्राथोराइज्ड आक्यूपेन्ट्स) एक्ट, 1971 (1971 का 40) के सैक्शन-3 द्वारा प्रदत्त प्राधिकारों का प्रयोग करते हुए, और भारत सरकार, खान मंत्रालय की एस.प्रो. क्रमांक 3262 दिनांक 24 अक्तूबर, 1994 द्वारा भारत के राजपत्र, भाग-2 खण्ड 3, उपखण्ड 2 में प्रकाशित अधिसूचना के

प्रतिस्थापन में केन्द्रीय सरकार हिन्दुस्तान जिंक लिमिटेड, उदयपुर एक निगमित प्राधिकरण के निम्नांकित अधिकारियों, जिनका उल्लेख निम्न तालिका के कालम- (2) में किया गया है, को सरकार के राजपत्रित अधिकारी के स्तर के समकक्ष अधिकारी होने के कारण इस ऐक्ट के प्रयोजन के लिये एतद्वारा सम्पदा अधिकारियों के रूप में नियुक्त करती है और साथ ही उक्त तालिका के कालम (3) में विनिर्दिष्ट किये गये अनुसार पब्लिक प्रीमिसिस की स्थानीय सीमाओं को परिभाषित करती है, जिसके संबंध में कथित सम्पदा अधिकारी उक्त ऐक्ट द्वारा या उसके अन्तर्गत प्रदत्त अधिकारों का प्रयोग करेंगे और सम्पदा अधिकारियों पर लागू कार्यों को निष्पादित करेंगे।

तालिका

क्र.सं.	अधिकारियों का पदनाम	पब्लिक प्रीमिसिस की स्थानीय सीमाएं
1	2	3
1.	महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड जावर माइन्स जिला-उदयपुर, राजस्थान	गांव जावर टीडी और अमरपुरा, तहसील गिर्वा तथा गांव बलारिया, सिंगटवाड़ा और नेवा तलाई, तहसील सराड़ा जिला उदयपुर (राजस्थान) में जावर खान समूह जिसमें आवासीय कालोनी सम्मिलित है।
2.	महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड जिक स्मेल्टर, देवारी, डाकघर-देवारी जिला-उदयपुर राजस्थान	जिक स्मेल्टर परिसर जिसमें आवासीय कालोनी, भवन तथा ओपन एरिया एवं भूमि और तहसील गिर्वा में गांव देवारी बिछड़ी और तहसील मावली जिला उदयपुर (राजस्थान) में गांव गुडली व जिक स्मेल्टर के अधीन अन्य परिसर।
3.	महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड, राजपुरा दरीबा खान, डाकघर-दरीबा जिला-राजसमन्ध राजस्थान	तहसील रेलमगरा जिला राजसमन्ध के गांव दरीबा राजपुरा, आजना महेन्दुरिया और तहसील कपासन जिला चित्तौड़गढ़ (राजस्थान) के गांव भकापाडिया में राजपुरा दरीबा खान समूह का सम्पूर्ण खनन पट्टा क्षेत्र (जिसमें आवास भूमि और उस पर निर्मित भवन सम्मिलित है)।
4.	महा प्रबंधक (कार्मिक एवं प्रशासन) हिन्दुस्तान जिंक लिमिटेड यशव भवन, उदयपुर राजस्थान	निगमित कार्यालय भवन, आवासीय क्वार्टर, अतिथिगृह तथा डिस्पेन्सरी और उदयपुर जिला (राजस्थान) में स्थित कम्पनी के कार्यालय परिसर।
5.	उप महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड मटून माइन्स जिला-उदयपुर राजस्थान	जिला-उदयपुर (राजस्थान) में तहसील-गिर्वा के ग्राम मटून कानपुर तथा लकड़वास में स्थित सम्पूर्ण खनन पट्टे का क्षेत्र एवं मटून खानों। आवासीय कालोनी सहित।
6.	महा प्रबंधक हिन्दुस्तान जिंक लिमिटेड चन्देरिया सीसा जस्ता प्रद्रावक डाकघर-पुठोली जिला-चित्तौड़गढ़ राजस्थान	गांव पुठोली, तहसील गंगरार जिला चित्तौड़गढ़ (राजस्थान) में स्थित चन्देरिया सीसा जस्ता प्रद्रावक परिसर जिसमें आवासीय कालोनी, भवन तथा ओपन एरिया, चित्तौड़गढ़ तथा घोंसुण्डा डेग साइट डाकघर घोंसुण्डा जिला चित्तौड़गढ़ (राजस्थान) में चन्देरिया सीसा जस्ता प्रद्रावक में सम्बन्धित भूमि एवं अन्य परिसर।

1	2	3
7.	महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड रामपुरा आगूचा खान, झाकघर—आगूचा जिला—भीलवाड़ा राजस्थान ।	गांव आगूचा जिला भीलवाड़ा (राजस्थान) के पास स्थित रामपुरा आगूचा खान का सम्पूर्ण खनन क्षेत्र साथ ही आवासीय कालोनी, भवन और ओपन क्षेत्र, भूमि एवं गाहपुरा बाटरा पम्प हाउस और बनास नदी बेल साइट सहित रामपुर आगूचा खान जिला भीलवाड़ा (राजस्थान) के अन्तर्गत अन्य परिसर ।
8.	उप महा प्रबंधक, हिन्दुस्तान जिंक लिमिटेड, जिंक स्मेल्टर, बिशाखापट्टनम आन्ध्र प्रदेश ।	सम्पूर्ण जिंक स्मेल्टर परिसर साथ में, आवासीय कालोनी, ओपन लैंड और गांव भिड़ी एवं मुलगुंडा जिला बिशाखापट्टनम (आन्ध्र प्रदेश) के अन्तर्गत अन्य परिसर ।
9.	खान अधीक्षक, हिन्दुस्तान जिंक लिमिटेड, अग्निगुंडाला लैंड माइन्स झाकघर बन्डालामोट्टू जिला—गुन्टूर आन्ध्र प्रदेश ।	बन्डाला मोट्टू गांव में स्थित अग्निगुंडाला का सम्पूर्ण खनन पट्टा क्षेत्र (आवास भूमि) तथा उस पर निर्मित भवन आवासीय कालोनी सहित जिला गुन्टूर, आन्ध्र प्रदेश ।
10.	कार्य प्रबंधक II, हिन्दुस्तान जिंक लिमिटेड, सीसा प्रदायक, दुण्डु झाकघर—दुण्डु जिला—धनबाद, बिहार ।	गांव दुण्डु, उप खण्ड भागमारा, पुलिस स्टेशन—भागमारा जिला धनबाद, बिहार में सम्पूर्ण सीसा प्रदायक, विभिन्न भवन आवासीय कालोनी तथा ओपन लैंड एवं अन्य परिसर ।
11.	खान अधीक्षक, हिन्दुस्तान जिंक लिमिटेड, सर्गीपल्ली खान, झाकघर—सर्गीपल्ली जिला—सुन्दरगढ़ उड़ीसा ।	सर्गीपल्ली का सम्पूर्ण खनन पट्टा क्षेत्र जिसमें आवास भूमि और उस पर निर्मित भवन सम्मिलित है और गांव किरिसारा, लोकवगा, नेलीपल्ली, महीकानी, बड़ाबंगा भरतपुर और हच्छानाला, झाकघर—सर्गीपल्ली जिला सुन्दरगढ़, उड़ीसा ।

[फाईल सं. 18(1)/97—धातु-2]

श्रीमती अदिनि एस. रे., निदेशक

MINISTRY OF STEEL AND MINES

(Department of Mines)

New Delhi, the 21st July, 1999

S.O. 2154.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of the notification of the Government of India in the Ministry of Mines, published in Gazette of India, Part-II, Section 3, Sub-section-ii, vide S.O. number 3262 dated the 24th October, 1994, the Central Government hereby appoints the following officers of Hindustan Zinc Limited, Udaipur, a statutory authority, mentioned in Column (2) of the Table below, being officers equivalent to the rank of gazetted officers of the Government to be estate officers for the purpose of the said Act and further defines the local limits of public premises as specified in Column (3) of the said Table, in respect of which, the said estate officers shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act.

TABLE

Sl. No.	Designation of the Officers	Local limits of public premises
(1)	(2)	(3)
1.	General Manager, Hindustan Zinc Limited Zawar Mines, District—Udaipur, Rajasthan.	Zawar Group of Mines located in village Zawar, Tidi and Amar-pura, Tehsil—Girwa and village Bhalaria, Singatwara and Rawatalai, Tehsil—Sarada of District—Udaipur (Rajasthan), including the residential colony.
2.	General Manager, Hindustan Zinc Limited, Zinc Smelter Debari, Post Office—Debari, District—Udaipur, Rajasthan.	Zinc Smelter premises including the residential colony buildings and open area and land and other premises under the Zinc Smelter in villages Debari and Bichdi in Tehsil—Girwa and village Gudli in Tehsil—Mavli, District—Udaipur (Rajasthan)
3.	General Manager, Hindustan Zinc Limited, Rajpura Dariba Mines, Post Office—Dariba, District Rajsamand, Rajasthan.	Entire Mining lease area of Rajpura Dariba group of mines (including lands acquired and buildings constructed thereon) in village Dariba, Rajpura, Anjana, Mahenduriya of Tehsil—Railmagara, District, Rajsamand and village Chakapriya of Tehsil—Kapasana, District—Chittorgarh (Rajasthan).
4.	General Manager, (Personnel and Administration), Hindustan Zinc Limited, Yashad Bhawan, Udaipur, Rajasthan.	Corporate Office buildings, residential quarters, guest houses and dispensary premises of the Company, located in District—Udaipur (Rajasthan)
5.	Deputy General Manager, Hindustan Zinc Limited, Maton Mines, District—Udaipur, Rajasthan.	Entire Mining lease area of Maton Mines located in village Maton, Kanpur and Lakarvas of Tehsil—Girwa, District—Udaipur (Rajasthan), including the residential colony.
6.	General Manager, Hindustan Zinc Limited, Chanderiya Lead-Zinc Smelter, Post Office—Putholi, District—Chittorgarh, Rajasthan.	Chanderiya Lead-Zinc Smelter premises, located in village Putholi Tehsil—Gangrar, District—Chittorgarh, including residential colony, buildings and open areas, land and other premises pertaining to Chanderiya Lead Zinc Smelter at Chittorgarh and Gosunda Dam site, Post Office—Gosunda, District—Chittorgarh (Rajasthan).
7.	General Manager, [Hindustan Zinc Limited Rampura Agucha Mines, Post Office—Agucha, District—Bhilwara, Rajasthan.	Entire Mining lease area of Rampura Agucha Mines, located near village Agucha, District—Bhilwara (Rajasthan) including the residential colony, building and open areas, land and other premises under the Rampura Agucha Mines including Banas River Bed well site and Shahpura water pump house in District—Bhilwara, Rajasthan.

1	2	3
8.	Deputy General Manager, Hindustan Zinc Limited, Zinc Smelter, Visakhapatnam, Andhra Pradesh.	Complete Zinc Smelter premises including residential colony and open land and other premises in villages Mindi and Mulgunda, District—Visakhapatnam (Andhra Pradesh)
9.	Superintendent, of Mines, Hindustan Zinc Limited, Agnigundala Lead Mines, Post Office—Bandalamottu, District—Guntur, Andhra Pradesh.	Entire Mining lease area of Agnigundala located in Bandalamottu village (including land acquired and building constructed thereon), District—Guntur, Andhra Pradesh, including the residential colony.
10.	Works Manager-II, Hindustan Zinc Limited, Lead Smelter Tundoo, Post Office—Tundoo, District—Dhanbad, Bihar.	Complete Lead Smelter, its various buildings residential colony and open land and other premises under the Lead Smelter in village Tundoo, Sub-division Bhagmara, Police Station—Bhagmara of District—Dhanbad (Bihar)
11.	Superintendent, of Mines, Hindustan Zinc Limited, Sargipalli Mines, Post Office—Sargipalli, District—Sundergarh, Orissa.	Entire Mining lease area of Sargipalli (including land acquired and building constructed thereon) and village Kirsara, Lokdega, Nailipalli, Mahikani, Badabanga, Bharatpur and Ichanala, Post Office—Sargipalli, District—Sundergarh, Orissa.

[F.No.18/1/97-Met.-II]

SMT. ADITI S. RAY, Director

पर्यावरण एवं वन मंत्रालय

नई दिल्ली, 30 जून, 1999

का. आ. 2155.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पर्यावरण एवं वन मंत्रालय के अधीन निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत कर्मचारीवृत्त ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. भारतीय वन प्रबंध संस्थान, भोपाल, मध्य प्रदेश ।
2. वन शिक्षा निदेशालय, देहरादून ।
3. वन संरक्षक (केन्द्रीय) क्षेत्रीय कार्यालय, चण्डीगढ़ ।
4. गोबिन्द बल्लभ पन्त हिमालय पर्यावरण एवं विकास संस्थान, अल्मोड़ा ।

[सं. ई-11011/31/88-रा. भा. (का.)]

बलदेव राज, निदेशक (रा. भा.)

MINISTRY OF ENVIRONMENT & FORESTS

New Delhi, the 30th June, 1999

S.O. 2155.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (use for official purpose of the union) Rule, 1976, the Central Government hereby notifies the following offices under the administrative control of the Ministry of Environment & Forests, the 80 percent staff whereof have acquired a working knowledge of Hindi :—

1. Indian Institute of Forest Management, Bhopal, Madhya Pradesh.
2. Directorate of Forest Education, Dehradun.
3. Forest Conservator (Central) Regional Office, Chandigarh.
4. G. B. Pant Institute of Himalayan, Environment & Development, Almora.

[No. E-11011/31/88-OL(I)]

BALDEV RAJ, Director (O.L.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 27 जुलाई, 1999

का. आ. 2156.— केन्द्रीय सरकार को यह प्रतात होता है कि लोकहित में यह आवश्यक है कि मोटर स्प्रिट, उच्चकोटि तेल और हाईस्पीड डीजल के भारत पेट्रोलियम कारपोरेशन लिमिटेड इरपानम् कोचीन, संस्थापन से तमिलनाडु राज्य में कसर तक परिवहन के लिये पेट्रोनेट सी.सी. के. लिमिटेड द्वारा पाइपलाइन बिछायी जानी चाहिये।

और ऐसी पाइपलाइन बिछाने के प्रयोजन के लिये इस अधिसूचना से उपाबन्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब, केन्द्रीय सरकार पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम १९६२ (१९६२ की ५०) की धारा ३ की उपधारा (१) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग का अधिकार अर्जित करने के अपने आशय की घोषणा करती है।

अतः उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति राजपत्र में तथा प्रकाशित इस अधिसूचना की प्रतियां जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर इनमें उपयोग के अधिकार का अर्जन या सक्षम प्राधिकारी के अधीन भूमि के नीचे पाइपलाइन बिछाने के संबंध में आक्षेप, लिखित रूप में श्री वी. कुप्पणन् सक्षम प्राधिकारी कोचीन, कोयम्बटूर, कसर पाइपलाइन परियोजना प्रथम मंजिल, कोवाई टावर्स, नं० ४४, बालासुन्दरम रोड, कोयम्बटूर-१८ पिन-६४१ ०१८ को कर सकेगा।

अनुसूची

तासुका - कोयम्बटूर [दक्षिण]

जिला - कोयम्बटूर

राज्य - तमिलनाडु

गाँव का नाम सर्वेक्षण संख्या हेक्टेयर आरे वर्ग मीटर

पिथानूर

1	2	3	4	5
	575/2	0	00	10
	291/1B	0	00	30
	305	0	03	35
	302/2A	0	14	16
	302/2B	0	13	62
	339/2	0	08	94
	304/1B	0	07	33
	345/2	0	11	30
	303/1D	0	00	72
	577	0	01	05
	575/1	0	00	49
	575/3	0	01	27
	574/1	0	01	95
	553/1B	0	17	03
	544/2A	0	00	91
	543/1B	0	01	75
	536/1	0	06	63
	538/2	0	01	90
	255/2	0	02	41
	255/1	0	01	44
	271/2	0	01	16
	291/1A	0	03	74
	291/2C	0	02	17
	291/2B	0	01	60
	293/4B	0	10	64

1	2	3	4	5
फिया नूर				
	295/1A	0	00	97
	295/1B	0	03	82
	295/2C	0	00	74
	295/2D	0	01	40
	295/2E	0	00	08
	311/1	0	01	62
	309/2	0	00	16
	309/5	0	00	17
	298/2E	0	00	40
	299/3A	0	02	81
	335/2	0	06	78
	335/3	0	01	03
	337	0	02	71
धिरुमा लायाम बलायाम				
	269/1	0	03	42
	267/1A	0	00	11
	280/2A7	0	00	09
	280/2A8	0	01	38
	280/2C	0	02	14
	280/2D2	0	03	77
	280/2D1	0	01	82
	280/2B2	0	04	48
	280/2B3	0	08	63
	280/2A2	0	04	13
	269/2	0	05	97
	294/2A	0	01	84
	294/2B	0	30	47
	77/2B	0	00	52
	80/1B	0	00	27
	80/2	0	01	80
	80/4	0	02	04
	109/4B	0	02	34
	109/6	0	00	88
	02	0	04	14
	212/2	0	01	78
	214/1	0	12	18

1	2	3	4	5
धिसुमरलतयतमवुलतयतम				
	215/2A	0	12	93
	215/2B	0	00	91
	207/3	0	05	22
	267/3A	0	00	24
	267/1B	0	11	16
	275/2B	0	01	57
	275/2C	0	00	87
	273	0	01	64
	291	0	01	16
	285/2	0	00	84
	77/2A	0	02	98
	81/3D	0	04	12
	81/3C2	0	01	83
	102	0	02	93
	109/3	0	09	91
	112/1A	0	00	49
	7/2B1C	0	06	19
	5/2	0	02	34
मलुकरत				
	738	0	11	66
	716/3B1A	0	05	13
	716/3B1B	0	01	89
	716/3B2	0	16	92
	715/1A	0	00	56
	715/1B	0	16	29
	715/2	0	07	00
	710/3	0	01	89
	669/1	0	00	90
	669/2	0	23	76
	749	0	01	55
	751	0	11	12
	710/2	0	02	26
	703/1	0	01	37

तालुका - पालाडेम अनुसूची जिला - कोयम्बटूर राज्य - महाराष्ट्र

गाँव का नाम सर्वेक्षण संख्या हेक्टेयर अफरे वर्ग मीटर

1	2	3	4	5
हरगुर	593/4	0	17	16
	593/5	0	01	04
	593/6	0	12	50
	602/2	0	00	02
	603/1	0	41	16
	603/7	0	04	56
	619/6B	0	15	35
	619/6C	0	00	81
	618/1	0	00	66
	679/1	0	01	68
	711/2	0	06	45
	695A/2A	0	31	79
	695B/1	0	13	21
	693/4A2	0	02	96
	583/B2	0	06	73
	586/1B2	0	03	92
	586/2	0	24	57
	586/3	0	18	98
	586/4	0	16	34
	678/1	0	00	71
	715/1	0	00	79
	715/2A	0	06	05
	580/1C1	0	09	42
	580/1C2	0	10	61
	580/1C3	0	00	72
	580/2B1	0	09	97
	580/2B2	0	06	52
	580/2B3	0	09	55
	580/2B4	0	06	97

1	2	3	4	5
इरगुर	580/2B5	0	03	63
	582/1	0	05	13
	582/2	0	41	97
	582/3	0	00	14
	581/1C2	0	03	91
	581/2B	0	03	83
	585/1A	0	07	31
	585/1B	0	03	50
	589/1A	0	02	67
	589/1B	0	06	16
	589/1C	0	03	14
	589/2	0	10	40
	593/3	0	05	59
	603/6	0	16	31
	619/3B	0	00	41
	619/4B	0	00	28
	699/1B	0	01	36
	698	0	02	03
	692/1A2B3	0	00	73
	693/4A1	0	03	88
	618/2B	0	00	57
	623/3C	0	00	31
	679/2B	0	00	27
	680/2D	0	02	52
	579/1	0	12	82
नीलाम्बुर	334/1	0	00	47
	339/D	0	00	74
	339/2	0	00	45
	339/3	0	00	64
	339/1E	0	06	60
	338/1	0	00	42
	338/2A	0	06	52
	337/1B	0	11	93
	336/3A	0	00	86
	336/1A	0	01	72
	337/1B	0	11	93

1	2	3	4	5
वृद्ध	38/1	0	01	29
	209/1	0	04	14
	209/3	0	03	78
	225/1	0	03	47
	12/2C	0	07	36
	35/2	0	00	72
	14/1	0	06	21
	149/1	0	02	41
	241/2	0	01	40
	208	0	01	03
	38/2D	0	00	28
	38/2E	0	00	51
	35/1A	0	01	90
	32/2B	0	00	36
	30	0	00	41
	28/2B	0	00	55
	17/2	0	01	28
	14/1	0	06	21
	14/5	0	00	80
	13/3A	0	00	92
	193	0	00	62
	159/1	0	00	67
	157	0	00	83
	152/1	0	03	43
	151/1	0	06	02
	128/2	0	03	99
	13/3C	0	00	95
	11/1C	0	01	23
	8/2B	0	00	26
	7/3B	0	08	47
	7/4	0	00	43

1	2	3	4	5
क्रोडा न्नीपालायाम	197/1A	0	00	07
	172/1B	0	01	71
	172/1D	0	02	21
	152/2	0	14	31
	137/3	0	05	62
	140/2	0	10	60
	104/1	0	02	74
	88/1	0	03	51
	88/2E	0	01	08
	300/4B	0	00	24
	294/2	0	00	24
	294/7	0	00	49
	126/3	0	07	52
	125/2	0	01	77
	193	0	02	32
	196/3	0	00	72
	197/2	0	03	51
	175/B1E	0	00	47
	175/B1D	0	09	24
	175/B1G	0	00	40
	172/1C	0	04	43
	172/1G	0	11	02
	171	0	05	35
	113/4B	0	01	51
	113/4C	0	00	72
	113/5B	0	07	06
	113/5C	0	05	78
	104/2A	0	07	82
	88/2H	0	04	35
	43/2A	0	02	58
	19	0	03	43
	14/1	0	01	01
	14/2	0	00	17
	294/1	0	04	98

1	2	3	4	5
कादमकोडी	135/5	0	01	04
	135/4	0	08	96
	135/10	0	02	52
	136/3A	0	19	04
	174/1A	0	00	02
	174/2D	0	00	43
	194/1A	0	00	42
	194/1B	0	00	08
	194/2	0	00	71
	195/1	0	01	60
	278/4A	0	00	76
	278/4B	0	18	49
	179/1	0	10	14
	178	0	04	28
	174/1C	0	02	13
	174/2A	0	03	05
	193/4A	0	00	57
	199/1	0	05	03
	199/2	0	03	77
	199/3	0	00	77
	311/4	0	23	25
	278/1	0	01	16
	278/2	0	00	79
	277/2A	0	01	30
	277/2B	0	09	80
	275/7	0	02	90
	275/9	0	03	61
	275/22	0	00	14
चंजयाम पालायम	1/8	0	01	05

1	2	3	4	5
सुकम्पासायाम	390/6	0	01	20
	363/5	0	00	17
	364/2	0	00	78
	320/3	0	11	74
	320/4	0	07	14
	311/1	0	00	03
	311/2	0	40	20
	311/3	0	32	36
	309/1B	0	02	74
	200/1B	0	20	06
	382/3E	0	02	10
	339/3	0	01	45
	336/3	0	02	27
	332/2A	0	01	16
	329/3	0	02	07
	322/3	0	10	39
	393/5	0	00	28
	393/6	0	00	10
	407/1	0	01	91
	390/2	0	01	89
	362/1	0	00	95
	363/1A	0	09	27
	363/2	0	00	36
	363/4B	0	00	72
	365/1A	0	01	11
	350/2	0	00	12
	330	0	00	96
	308/1	0	03	93
	382/3A	0	01	35

1	2	3	4	5
पालाडेम				
	163	0	01	67
	164/1A	0	00	65
	154/5	0	00	06
	154/7	0	00	48
	154/9	0	01	90
	167/1A1	0	00	23
	114	0	00	82
	125/2A	0	00	68
	135	0	01	77
	164/1L	0	00	65
	164/1G	0	00	26
	154/6	0	04	18
	166/1A	0	00	28
	167/2	0	00	88
	153/2	0	00	40
	152/2D	0	02	23
	152/2B	0	00	39
नारानापुरम				
	377/1B	0	00	18
	376/3	0	00	18
	435/1B	0	01	04
	434/1	0	01	14
	434/4	0	00	43
	434/7	0	03	92
	428/4	0	00	51
	416/3	0	12	32
	377/2	0	03	52
	379/1	0	00	64
	397	0	04	96
	376/2	0	01	10
	422/1A	0	01	37

1	2	3	4	5
गानासायीपालायाम	586/3C1	0	00	77
	593/1A	0	09	57
	593/1B	0	01	76
	344/1A	0	11	40
	502/2B	0	09	13
	587/2A1	0	00	64
	586/1	0	00	25
	598/1	0	00	54
	600	0	05	52
	618/2	0	00	63
	226	0	02	77
	265/3	0	01	48
	265/5	0	02	56
	344/4	0	02	28
	342/2C	0	01	03
	332/1A	0	00	21
	326/2	0	01	18
	325	0	00	33
	377/2	0	00	57
	451	0	00	24
	452/1	0	03	88
	456/1	0	03	99
	463	0	01	41
	464	0	00	43
	493	0	01	78
	486/6	0	00	67
	502/2A1	0	02	35
	502/2A2	0	00	11
	332/1B	0	03	22
	332/2	0	01	18
	333/2	0	00	18
	379	0	03	23

अनुसूची

का - तिरुचुर

जिला - कोयमबदर

राज्य - तमिलनाडु

का नाम सर्वेक्षण संख्या क्षेत्रांतर आरे वगी मीटर

1	2	3	4	5
गाटीपालायाम				
	446/2A1	0	03	53
	448/2A	0	03	20
	419/2	0	00	11
	420/2A1	0	00	19
	446/2A7	0	00	16
	446/2A6	0	01	70
	446/1A1	0	07	61
	446/1A2	0	00	48
	461/2A	0	00	24
	465/2	0	01	04
	464/1A	0	00	15
	461/B	0	00	31
अधानाशीपालायाम				
[उत्तरी]				
	105/1	0	01	22
	108/3	0	03	03
	95/4	0	00	93
	93/3	0	02	17
	89/1A	0	00	72
	314/1A1	0	06	44
	314/1C3A	0	09	74
	314/2B1	0	13	42
	315/1	0	19	48
	316	0	58	93
	323	0	28	01

1	2	3	4	5
उगयानूर	190/3	0	21	87
	271/1C	0	02	37
	271/2F	0	00	26
	271/2G	0	00	30
	271/2H	0	00	28
	271/2I	0	00	30
	271/2M	0	00	12
	271/2N	0	00	10
	581	0	04	60
	187/2	0	14	73
	186/1A	0	02	87
	184/1	0	01	91
	181/2A	0	01	57
	269/2B	0	01	73
	271/1A	0	01	18
	267/1A	0	01	33
	366	0	02	47
	364	0	05	22
	584	0	03	46
	580/1	0	07	66
	578/2	0	02	19
	190/3	0	21	87
आलागुमालाई	88/1A	0	01	89
	65/4C	0	00	75
	65/4B	0	00	12
	65/1B	0	00	48
	59/3D	0	00	81
	59/3B	0	00	14
	59/1B	0	01	21
	59/1A	0	00	44
	81/2E	0	01	70
	81/2D	0	01	57
	81/2B	0	01	03
	81/2A	0	01	71
	88/1B3	0	00	38
	122/2	0	21	38
	122/1B	0	02	78

1	2	3	4	5
अलागुमादाई				
	94/1	0	07	65
	94/2A	0	04	09
	94/2B	0	02	21
	94/3A	0	01	42
	94/3B	0	00	96
	94/3C	0	00	99
	95/2	0	28	66
	96/1A	0	09	95
	96/1B	0	06	87
	96/2B	0	04	41
	96/2E	0	03	35
	96/2F	0	07	63
	52/1	0	15	31
	52/2	0	03	44
	52/3	0	02	00
	52/4	0	02	00
	51/1	0	18	00
	51/2	0	00	28
	51/5	0	02	28
	113	0	09	31
कान्ठयानकोविल				
	584/19	0	00	18
	592/1A	0	00	50
	591/8	0	02	72
	603/1C	0	00	49
	695/4	0	03	40
	695/6	0	00	60
	695/7	0	01	07
	695/8	0	01	66
	643/4A	0	05	03
	644/4	0	00	20
	582/3B	0	01	20
	567/1A	0	19	56
	567/2A	0	19	30
	1096/1C	0	01	27
	1096/1A	0	00	09
	1094/3	0	00	12
	1092/2B	0	00	67
	1092/2A	0	01	26

1	2	3	4	5
का. नं. १०१/१०१	1090/1	0	02	70
	695/13	0	01	58
	699/1A	0	01	19
	697/1	0	06	13
	696/3B4	0	03	87
	696/1B2	0	00	95
	637/1A	0	05	98
	641/1E	0	00	18
	641/2	0	00	53
	643/4C	0	00	29
	643/1A	0	00	79
	644/1	0	00	37
	602/1	0	01	14
	591/2	0	08	68
	592/2A	0	00	38
	584/18	0	00	34
	584/16	0	00	40
	583/3B	0	00	28
	583/2A	0	00	68
	582/3A	0	03	13
	579/3A1	0	11	74
	565	0	02	28

[आर-31015/15/98-ओ.आर.-II]

एस. चन्द्रशेखर, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 27th July, 1999

S.O. 2156.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Motor Spirit, Superior Kerosene Oil and High Speed Diesel from Irumpanam Installation of Bharat Petroleum Corporation Limited, Irumpanam, Cochin to Karur in the state of Tamil Nadu, a pipeline should be laid by Petronet CCK Limited;

And, whereas, for the purpose of laying such pipeline it is necessary to acquire the right of user in the lands described in the schedule annexed to this notification;

Now, therefore, in the exercise of powers conferred by sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

PETRONET, CCKPL PROJECT

Any person interested in land described in the said schedule may within twenty one days from the date on which the copies of the notification as published in the Gazette of India are made available to the general public, object in writing to the acquisition of the right of user therein for laying the pipeline under the land to Shri V. Kuppannan, Competent Authority (Tamil Nadu), Cochin-Coimbatore-Karur Pipeline Project, 1st Floor, "KOVAI TOWERS", No.44, Balasundaram Road, Coimbatore-18
Pin : 641 018.

SCHEDULE

TALUK:COIMBATORE (SOUTH) DISTRICT:COIMBATORE STATE: TAMIL NADU

Name of the village	Survey No.	AREA		
		Hectares	Ares	Sq.Mts.
1	2	3	4	5
PICHANUR	575/2	0	00	10
	291/1B	0	00	30
	305	0	03	35
	302/2A	0	14	16
	302/2B	0	13	62
	339/2	0	08	94
	304/1B	0	07	33
	345/2	0	11	30
	303/1D	0	00	72
	577	0	01	05
	575/1	0	00	49
	575/3	0	01	27
	574/1	0	01	95
	553/1B	0	17	03
	544/2A	0	00	91
	543/1B	0	01	75
	536/1	0	06	63
	538/2	0	01	90
	255/2	0	02	41
	255/1	0	01	44
	271/2	0	01	16
	291/1A	0	03	74
	291/2C	0	02	17
	291/2B	0	01	60
	293/4B	0	10	64

1	2	3	4	5
PICHANUR (CONT...)	295/1A	0	00	97
	295/1B	0	03	82
	295/2C	0	00	74
	295/2D	0	01	40
	295/2E	0	00	08
	311/1	0	01	62
	309/2	0	00	16
	309/5	0	00	17
	298/2E	0	00	40
	299/3A	0	02	81
	335/2	0	06	78
	335/3	0	01	03
	337	0	02	71
THIRUMALA- YAMPALAYAM	269/1	0	03	42
	267/1A	0	00	11
	280/2A7	0	00	09
	280/2A8	0	01	38
	280/2C	0	02	14
	280/2D2	0	03	77
	280/2D1	0	01	82
	280/2B2	0	04	48
	280/2B3	0	08	63
	280/2A2	0	04	13
	269/2	0	05	97
	294/2A	0	01	84
	294/2B	0	30	47
	77/2B	0	00	52
	80/1B	0	00	27
	80/2	0	01	80
	80/4	0	02	04
	109/4B	0	02	34
	109/6	0	00	88
	02	0	04	14
	212/2	0	01	78
	214/1	0	12	18
	215/2A	0	12	93
	215/2B	0	00	91
	207/3	0	05	22
	267/3A	0	00	24
Compete Special I PETRONET, Col	267/1B	0	11	16
	275/2B	0	01	57
	275/2C	0	00	87
	273	0	01	64
	291	0	01	16

1	2	3	4	5
THIRUMALAYAM-PALAYAM (CONT...)	285/2 77/2A 81/3D 81/3C2 102 109/3 112/1A 7/2B1C 5/2	0 0 0 0 0 0 0 0 0	00 02 04 01 02 09 00 06 02	84 98 12 83 93 91 49 19 34
MADUKARAI	738 716/3B1A 716/3B1B 716/3B2 715/1A 715/1B 715/2 710/3 669/1 669/2 749 751 710/2 703/1	0 0 0 0 0 0 0 0 0 0 0 0 0 0	11 05 01 16 00 16 07 01 00 23 01 11 02 01	66 13 89 92 56 29 00 89 90 76 55 12 26 37

TALUK: PALLADAM

DIST: COIMBATORE

STATE: TAMIL NADU

Name of the village	Survey No.	Area		
		Hectares.	Ares	Sq. Mts.
1	2	3	4	5

IRUGUR	593/4	0	17	16
	593/5	0	01	04
	593/6	0	12	50
	602/2	0	00	02
	603/1	0	41	16
	603/7	0	04	56
	619/6B	0	15	35
	619/6C	0	00	81
	618/1	0	00	66
	679/1	0	01	68
	711/2	0	06	45
	695A/2A	0	31	79

1	2	3	4	5
IRUGUR (CONT...)	695B/1	0	13	21
	693/4A2	0	02	96
	583/B2	0	06	73
	586/1B2	0	03	92
	586/2	0	24	57
	586/3	0	18	98
	586/4	0	16	34
	678/1	0	00	71
	715/1	0	00	79
	715/2A	0	06	05
	580/1C1	0	09	42
	580/1C2	0	10	61
	580/1C3	0	00	72
	580/2B1	0	09	97
	580/2B2	0	06	52
	580/2B3	0	09	55
	580/2B4	0	06	97
	580/2B5	0	03	63
	582/1	0	05	13
	582/2	0	41	97
	582/3	0	00	14
	581/1C2	0	03	91
	581/2B	0	03	83
	585/1A	0	07	31
	585/1B	0	03	50
	589/1A	0	02	67
	589/1B	0	06	16
	589/1C	0	03	14
	589/2	0	10	40
	593/3	0	05	59
	603/6	0	16	31
	619/3B	0	00	41
	619/4B	0	00	28
	699/1B	0	01	36
	698	0	02	03
	692/1A2B3	0	00	73
	693/4A1	0	03	88
	618/2B	0	00	57
	623/3C	0	00	31
	679/2B	0	00	27
	680/2D	0	02	52
	579/1	0	12	82

1	2	3	4	5
NEELAMBUR	334/1	0	00	47
	339/D	0	00	74
	339/2	0	00	45
	339/3	0	00	64
	339/1E	0	06	60
	338/1	0	00	42
	338/2A	0	06	52
	337/1B	0	11	93
	336/3A	0	00	86
	336/1A	0	01	72
	337/1B	0	11	93
SULUR	38/1	0	01	29
	209/1	0	04	14
	209/3	0	03	78
	225/1	0	03	47
	12/2C	0	07	36
	35/2	0	00	72
	14/1	0	06	21
	149/1	0	02	41
	241/2	0	01	40
	208	0	01	03
	38/2D	0	00	28
	38/2E	0	00	51
	35/1A	0	01	90
	32/2B	0	00	36
	30	0	00	41
	28/2B	0	00	55
	17/2	0	01	28
	14/1	0	06	21
	14/5	0	00	80
	13/3A	0	00	92
	193	0	00	62
	159/1	0	00	67
	157	0	00	83
	152/1	0	03	43
	151/1	0	06	02
	128/2	0	03	99
	13/3C	0	00	95
	11/1C	0	01	23
	8/2B	0	00	26
	7/3B	0	08	47
	7/4	0	00	43

1	2	3	4	5
KODANGI- PALAYAM	197/1A	0	00	07
	172/1B	0	01	71
	172/1D	0	02	21
	152/2	0	14	31
	137/3	0	05	62
	140/2	0	10	60
	104/1	0	02	74
	88/1	0	03	51
	88/2E	0	01	08
	300/4B	0	00	24
	294/2	0	00	24
	294/7	0	00	49
	126/3	0	07	52
	125/2	0	01	77
	193	0	02	32
	196/3	0	00	72
	197/2	0	03	51
	175/B1E	0	00	47
	175/B1D	0	09	24
	175/B1G	0	00	40
	172/1C	0	04	43
	172/1G	0	11	02
	171	0	05	35
	113/4B	0	01	51
	113/4C	0	00	72
	113/5B	0	07	06
	113/5C	0	05	78
	104/2A	0	07	82
	88/2H	0	04	35
	43/2A	0	02	58
	19	0	03	43
	14/1	0	01	01
	14/2	0	00	17
	294/1	0	04	98

1	2	3	4	5
KADAMBADI	135/5	0	01	04
	135/4	0	08	96
	135/10	0	02	52
	136/3A	0	19	04
	174/1A	0	00	02
	174/2D	0	00	43
	194/1A	0	00	42
	194/1B	0	00	08
	194/2	0	00	71
	195/1	0	01	60
	278/4A	0	00	76
	278/4B	0	18	49
	179/1	0	10	14
	178	0	04	28
	174/1C	0	02	13
	174/2A	0	03	05
	193/4A	0	00	57
	199/1	0	05	03
	199/2	0	03	77
	199/3	0	00	77
	311/4	0	23	25
	278/1	0	01	16
	278/2	0	00	79
	277/2A	0	01	30
	277/2B	0	09	80
	275/7	0	02	90
	275/9	0	03	61
	275/22	0	00	14
KANGAYAM- PALAYAM	1/8	0	01	05

1	2	3	4	5
SUKKAMPALAYAM	390/6	0	01	20
	363/5	0	00	17
	364/2	0	00	78
	320/3	0	11	74
	320/4	0	07	14
	311/1	0	00	03
	311/2	0	40	20
	311/3	0	32	36
	309/1B	0	02	74
	200/1B	0	20	06
	382/3E	0	02	10
	339/3	0	01	45
	336/3	0	02	27
	332/2A	0	01	16
	329/3	0	02	07
	322/3	0	10	39
	393/5	0	00	28
	393/6	0	00	10
	407/1	0	01	91
	390/2	0	01	89
	362/1	0	00	95
	363/1A	0	09	27
	363/2	0	00	36
	363/4B	0	00	72
	365/1A	0	01	11
	350/2	0	00	12
	330	0	00	96
	308/1	0	03	93
	382/3A	0	01	35

1	2	3	4	5
PALLADAM	163	0	01	67
	164/1A	0	00	65
	154/5	0	00	06
	154/7	0	00	48
	154/9	0	01	90
	167/1A1	0	00	23
	114	0	00	82
	125/2A	0	00	68
	135	0	01	77
	164/1L	0	00	65
	164/1G	0	00	26
	154/6	0	04	18
	166/1A	0	00	28
	167/2	0	00	88
	153/2	0	00	40
	152/2D	0	02	23
	152/2B	0	00	39
NARANAPURAM				
	377/1B	0	00	18
	376/3	0	00	18
	435/1B	0	01	04
	434/1	0	01	14
	434/4	0	00	43
	434/7	0	03	92
	428/4	0	00	51
	416/3	0	12	32
	377/2	0	03	52
	379/1	0	00	64
	397	0	04	96
	376/2	0	01	10
	422/1A	0	01	37

1	2	3	4	5
GANAPATHIPALAYAM				
	586/3C1	0	00	77
	593/1A	0	09	57
	593/1B	0	01	76
	344/1A	0	11	40
	502/2B	0	09	13
	587/2A1	0	00	64
	586/1	0	00	25
	598/1	0	00	54
	600	0	05	52
	618/2	0	00	63
	226	0	02	77
	265/3	0	01	48
	265/5	0	02	56
	344/4	0	02	28
	342/2C	0	01	03
	332/1A	0	00	21
	326/2	0	01	18
	325	0	00	33
	377/2	0	00	57
	451	0	00	24
	452/1	0	03	88
	456/1	0	03	99
	463	0	01	41
	464	0	00	43
	493	0	01	78
	486/6	0	00	67
	502/2A1	0	02	35
	502/2A2	0	00	11
	332/1B	0	03	22
	332/2	0	01	18
	333/2	0	00	18
	379	0	03	23

SCHEDULE**TALUK:TIRUPPUR DISTRICT:COIMBATORE STATE:TAMIL NADU**

Name of the village	Survey No.	AREA		
		Hectares	Ares	Sq.Mts.
1	2	3	4	5

THONGATTIPALAYAM

446/2A1	0	03	53
448/2A	0	03	20
419/2	0	00	11
420/2A1	0	00	19
446/2A7	0	00	16
446/2A6	0	01	70
446/1A1	0	07	61
446/1A2	0	00	48
461/2A	0	00	24
465/2	0	01	04
464/1A	0	00	15
461/B	0	00	31

NORTH AVANASHIPALAYAMM

105/1	0	01	22
108/3	0	03	03
95/4	0	00	93
93/3	0	02	17
89/1A	0	00	72
314/1A1	0	06	44
314/1C3A	0	09	74
314/2B1	0	13	42
315/1	0	19	48
316	0	58	93
323	0	28	01

1	2	3	4	5
UGAYANUR	190/3	0	21	87
	271/1C	0	02	37
	271/2F	0	00	26
	271/2G	0	00	30
	271/2H	0	00	28
	271/2I	0	00	30
	271/2M	0	00	12
	271/2N	0	00	10
	581	0	04	60
	187/2	0	14	73
	186/1A	0	02	87
	184/1	0	01	91
	181/2A	0	01	57
	269/2B	0	01	73
	271/1A	0	01	18
	267/1A	0	01	33
	366	0	02	47
	364	0	05	22
	584	0	03	46
	580/1	0	07	66
	578/2	0	02	19
	190/3	0	21	87
ALAGUMALAI	88/1A	0	01	89
	65/4C	0	00	75
	65/4B	0	00	12
	65/1B	0	00	48
	59/3D	0	00	81
	59/3B	0	00	14
	59/1B	0	01	21
	59/1A	0	00	44
	81/2E	0	01	70
	81/2D	0	01	57
	81/2B	0	01	03
	81/2A	0	01	71
	88/1B3	0	00	38
	122/2	0	21	38
	122/1B	0	02	78

1	2	3	4	5
ALAGUMALAI (CONT....)	94/1	0	07	65
	94/2A	0	04	09
	94/2B	0	02	21
	94/3A	0	01	42
	94/3B	0	00	96
	94/3C	0	00	99
	95/2	0	28	66
	96/1A	0	09	95
	96/1B	0	06	87
	96/2B	0	04	41
	96/2E	0	03	35
	96/2F	0	07	63
	52/1	0	15	31
	52/2	0	03	44
	52/3	0	02	00
	52/4	0	02	00
	51/1	0	18	00
	51/2	0	00	28
	51/5	0	02	28
	113	0	09	31
KANDIANKOIL				
	584/19	0	00	18
	592/1A	0	00	50
	591/8	0	02	72
	603/1C	0	00	49
	695/4	0	03	40
	695/6	0	00	60
	695/7	0	01	07
	695/8	0	01	66
	643/4A	0	05	03
	644/4	0	00	20
	582/3B	0	01	20
	567/1A	0	19	56
	567/2A	0	19	30
	1096/1C	0	01	27
	1096/1A	0	00	09
	1094/3	0	00	12
	1092/2B	0	00	67
	1092/2A	0	01	26

1	2	3	4	5
KANDIANKOIL	1090/1	0	02	70
(CONT ...)	695/13	0	01	58
	699/1A	0	01	19
	697/1	0	06	13
	696/3B4	0	03	87
	696/1B2	0	00	95
	637/1A	0	05	98
	641/1E	0	00	18
	641/2	0	00	53
	643/4C	0	00	29
	643/1A	0	00	79
	644/1	0	00	37
	602/1	0	01	14
	591/2	0	08	68
	592/2A	0	00	38
	584/18	0	00	34
	584/16	0	00	40
	583/3B	0	00	28
	583/2A	0	00	68
	582/3A	0	03	13
	579/3A1	0	11	74
	565	0	02	28

[R-31015/15/98-OR-II]

S. CHANDRASEKHAR, Under Secy.

नई दिल्ली, 29 जुलाई, 1999

सूचि-पत्र

का. आ. 2157.— केन्द्रीय सरकार ने तत्संबन्धित प्राकृतिक गैस की पुनर्गोष्ठीकरण सुविधा से जो महाराष्ट्र राज्य के रत्नागिरी जिले की गुहागर तहसील [शामोल के समीप] में कलवाही स्थान पर स्थापित होना है, ठाणे जिले की तलसारा तहसील में उपलब्ध अवस्थित टर्मिनल तक, मेट्रोपोलिस गैस कम्पनी प्राइवेट लिमिटेड द्वारा प्राकृतिक गैस के परिवहन और वितरण के लिए पाईपलाइन बिछाने हेतु महाराष्ट्र राज्य सरकार से पेट्रोलियम और अग्निज पाईपलाइन [भूमि में उपयोग के अधिकार का अर्पण], 1962 [1962 का 50] की धारा 2 के खण्ड [क] के अंतर्गत ससम अधिकारी के कृत्यी का पालन के लिए का० आ० 16 दिनांक 22-12-98 [दिनांक 02-01-1999 के राजपत्र में प्रकाशित] मेट्रोपोलिस गैस कम्पनी प्राइवेट लिमिटेड में सीबिदा के आधार पर सर्वेची एत इन्फू चौधरी, ए० बी० बरबकर, एस० एस० रिशबुद और एस० जी० देसाई को प्राधिकृत किया है।

2. और केन्द्रीय सरकार पेट्रोलियम और पाईप लाइन में उपयोग के अधिकार का अर्पण [अधिनियम 1962] [1962 का 50] [जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है] की धारा 3 की उपधारा [1] के अधीन जारी और भारत के राजपत्र भाग -2 खण्ड -3 उपखण्ड [2] [पृष्ठ संख्या 2308 में प्रकाशित भारत सरकार पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. 1065 दिनांक 17-4-99 द्वारा केन्द्रीय सरकार ने अधिसूचना से संलग्न अनुसूची में वर्णित भूमि का अधिग्रहण करने के अपने आशय की सूचना की थी।

3. और केन्द्रीय सरकार के ध्यान में लाया गया है कि राजपत्र में उपरोक्त अधिसूचना में मुद्रण संबंधी कुछ त्रुटियाँ हैं।

4. अतः अब केन्द्रीय सरकार, पेट्रोलेियम और लानिय पाईपलाइन [भूमि में उपयोग के अधिकार का अधिनियम, 1962] 1962 का 50] की धारा 3 की उप धारा [1] द्वारा प्रस्ता शक्तियो का उपयोग करते हुए, यह निदेश देती है कि भारत सरकार के पेट्रोलेियम और प्राकृतिक गैस मंत्रालय की उक्त अधिसूचना के अ० क्र० 51 रोडनंबर [1] के अंतर्गत सतम्ब संख्या 5 में "13/1 से 13/6 पै" के बाव सतम्ब 5,6,7,8,9 व 10 में निम्नलिखित रीक्तियो

"5	6	8	9	10	"5	6	8	9	10
153	15 पै	0	00		153	15 पै	0	00	1
	17+18 पै	0	00	1		17+18 पै	0	00	7
	19 पै	0	02	7		19पै	0	02	4
	20पै	0	12	4		20पै	0	12	1
	31पै	0	00	1		31पै	0	00	3
188	11पै	0	05	3	188	11पै	0	05	7
	12पै	0	10	7		12पै	0	10	0
	13पै	0	03	0		13पै	0	03	1
189	4पै	0	07	1	189	4पै	0	07	8
	9पै	0	02	8		9पै	0	02	2
190	23पै	0	00	2	190	23पै	0	00	5
193	1पै	0	07	5	193	1पै	0	07	2
	2पै	0	04	2		2पै	0	04	7
	3पै	0	02	7		3पै	0	02	3
	4पै	0	03	3		4पै	0	03	2
	7पै	0	09	2		7पै	0	09	3
	8पै	0	01	3		8पै	0	01	9
	9पै	0	05	9		9पै	0	05	0
	10पै	0	00	0"		10पै	0	00	5"

के स्थान पर

पदा जार।

[एल-14014/16/98-जी.पी.]

सुनील कुमार सिंह, अवर सचिव

श्रम मंत्रालय

नई दिल्ली, 5 जुलाई, 1999

का.आ. 2158 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक याफ त्रेवनकोर के प्रबंधन के संवद नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, इडुक्की के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-7-1999 को प्राप्त हुआ था।

[सं. एल-12012/79/98-आई.आर. (बी-I)]

सनातन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 5th July, 1999

S.O. 2158.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Idukki as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on 03-07-1999.

[No. L-12012/79/98-IR(B I)]

SANATAN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, IDUKKI

(Dated, this the 14th day of April, 1999)

PRESENT :

Shri P. V. Abraham, B.Sc. L.L.B.,
Industrial Tribunal

Industrial Dispute No. 17 of 1998

BETWEEN

The General Manager (Operations),
State Bank of Travancore,
H.O. Poojappura,
Thiruvananthapuram-695 001.

Management.

AND

Shri C. G. Gopalakrishnan,
Mullappallil House,
Arikuzha P.O.,
Thodupuzha-685 584.

Workman.

REPRESENTATIONS

1. Shri Zachariah Kozhy, B.Sc.B.L.,
Advocate, Kottayam

For Management.

AWARD

The Government of India, as per Order No. L-12012/79/98-IR(B.I) dated 15-10-1998, referred this industrial dispute for adjudication to this Tribunal. As per that reference order the name of the management was shown as State Bank of India. However, as per order dated 11-2-1999 the name

of the management was corrected as State Bank of Travancore.

The issue referred for adjudication is the following :—

"Whether the action of the management of State Bank of Travancore, Zonal Office, Ernakulam, in passing an order discharging from service against the workman Shri C. G. Gopalakrishnan, Cashier/Clerk, S.B.T. Kariimannoor branch on 23-4-1992 is legal? If not to what relief the workman is entitled?"

Despite service of registered notice, the workman has not appeared before this Tribunal. Therefore, the workman was declared ex-parte. The management filed an affidavit. They have also produced the domestic enquiry file.

The management has stated in their affidavit that a fair and proper enquiry was conducted in respect of the charges alleged against the workman. The enquiry officer found that the misconduct alleged against the workman was proved. On the basis of the findings of the enquiry officer, the workman was dismissed from service.

I have gone through the enquiry file and it is seen that the enquiry officer had afforded sufficient opportunity to the workman to defend his case. The enquiry officer had conducted the enquiry properly and in compliance with the principles of natural justice. After analysing the evidence in detail the enquiry officer has come to the conclusion that the misconduct alleged against the workman has been proved. On going through the enquiry file it can be seen that the enquiry officer has considered the evidence in detail and has come to a correct finding that the misconduct alleged against the workman has been proved. The misconduct proved against the workman is very grave and serious and does not deserve any interference by this Tribunal.

In the result, I hold that the dismissal of the workman from service is just and proper and the workman is not eligible for any relief.

P. V. ABRAHAM, Industrial Tribunal

नई दिल्ली, 7 जुलाई, 1999

का.आ. 2159 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संवद नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एल-12012/427/95-आई.आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2159.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 5-7-99.

[No. L-12012/427/95-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE

Dated 28th June, 1999

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. 207/97

I PARTY

Sri G. Chandrasekhar,
No. 3, Bhavya Sadanan,
Teachers' Colony,
Basaveshwarnagar,
BANGALORE-79.

II PARTY

The General Manager (IR),
Vijaya Bank H.O.,
M.G. Road,
Bangalore-1.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of the Industry 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/427/95-IR(B-II) dt. 4-3-97 for adjudication on the following schedule

SCHEDULE

"Whether the action of the management of Vijaya Bank in terminating the services of Sri. G. Chandrasekhar, clerk w.e.f. 1-2-90 is justified & legal? If not, to what relief the said workman is entitled?"

2. The I Party workman was engaged as a clerical trainee w.e.f. 2-9-74. Thereafter, he was appointed as a Probationary clerk w.e.f. 2-12-74. He was confirmed as a clerk w.e.f. 8-6-75.

3. The case made out by the II Party is required to justify their action briefly stated is as follows:

This workman was found to be very irregular in attending his duties and he used to remain absent unauthorisedly, thereby causing disruption in the activities of the Bank where he was working.

4. He has remained absent unauthorisedly from 8-9-89 in contravention of the leave rules and without intimation. Since his absence was unauthorised, which exceeded 90 days at a stretch II Party issued a notice dt. 9-12-89 by RFAD advising the I Party to report for duty within 30 days and also submit satisfactory explanation within the time specified, failing which it would be deemed that he has voluntarily retired from the services of the Bank. This notice was received by the workman. Since he did not report for duty nor any explanation was submitted under deemed clause, the II party considered that the I Party voluntarily retired from the services of the Bank w.e.f. 9-1-90. Infact, a letter was sent to the I Party to this effect which was received by him.

5. Later on 19-3-90, the I Party approached the Bank and requested to reconsider his case. His request was rejected by the management by a letter dt. 4-4-90.

6. The I Party has contended in his Claim statement that from 8-9-89, he had fallen sick and could not attend to his duties as he was under continuous medical treatment at Bowring Hospital, Bangalore. He was advised to be on rest up to 18-3-90. He has further contended that this fact was brought to the notice of the Branch Manager, K.G. Road through his colleagues. The II Party have ignored this aspect of the matter and removed him from service as voluntarily retired.

7. He has also questioned the authority of the II Party in removing his name from the muster rolls with retrospective effect from 9-1-90. His further contention is that the action of the management amounts to illegal termination which amounts to retrenchment as defined under Sec. 2(oo) of the Act. Therefore non-compliance of the mandatory provision contained under Sec. 25F, the termination is illegal. He has also contended that the action of the management amounts to victimisation.

8. Since the termination of the I Party by the management by exercising powers under Clause 17 of Bipartite settlement and also due to the fact that the pleadings does not give size to frame any additional issues, the parties are directed to lead their evidences on the schedule to the reference.

9. The II Party examined a Senior Manager as MW1 to justify the action taken by them. This witness has reiterated the averments made in the counter statements. All the relevant documents were marked from Ex. M1 to Ex. M13.

10. This witness further stated that this workman vide his letter dt. 1-6-84, Ex. M14, sought permission to act in movies. The permission was accorded with a condition that his activities should not affect the discharge of his duties as per the Order Ex. M-14A. The letter was also issued as per Ex. M15. In many leave applications this workman gave the reason for his absence as engagement in acting in films.

11. Though the Learned advocate for the I Party cross examined this witness at great length, no material was elicited which could be used in favour of the workman. Some hyper-technical questions were asked, the answer of which does not alter the nature of the case.

12. The Learned advocate for the II Party Smt. Survamangala has submitted that under Clause 17 if any employee of the Bank remained absent unauthorisedly for over 90 days, the Bank may presume that the employee has no interest to continue in the work or he has abandoned his work voluntarily or he has left this country on taking a job in a foreign country.

13. Clause 17 does not show any ambiguity in its application. To invoke clause 17, the above conditions shall be present and it is sufficient if a notice is given to the party after 90 days of absence directing him to report for duty within 30 days or make suitable explanation for his absence. Infact, the notice to report for duty and also the final notice treating him as

voluntarily retired was duly served on the I Party. He has not complied the Notice and therefore, the management had no option but to pass an Order in accordance with Clause 17. Therefore, to this extent the management are justified in invoking Clause 17 in the case of the I Party.

14. The I Party who has made out a case of sickness has not produced any documents evidencing the said fact. In spite of no. of adjournments given he has not chosen to place his evidence in support of the Claim Statement, since his very contention in the claim Statement that he has sent word to the management through his colleagues about his sickness is highly deplorable. He has admitted to have taken treatment in Bowring Hospital and there was no impediment for him to produce the leave application supported by medical certificates. He has also not stated the nature of ailment that has prevented him to send any communication to the management due to his disability. He has also stated that he has got his family members and nothing has prevented him to send a communication through his family members.

15. Smt. Survamangala further submitted that the conduct of this party as disclosed in the counter statement and proved in the evidence of MW1 shows that the I Party is not telling the truth. His previous unauthorised absence and the action taken by the management is as follows :

- (a) Charge sheet bearing No. BGZ/IRS/1/87 dt. 20-8-1987 (Annexure-I) was issued to the I Party workman for remaining on unauthorised absence for 205 days contrary to the leave rules of the Bank. Since he has voluntarily admitted the charges framed against him vide final order No. BGZ/FER/IRS/2821/88 dt. 22-2-1988 punishment of stoppage of one increment temporarily for a period of six months was imposed on the I Party.
- (b) In spite of initiating disciplinary action and imposition of punishment, the I Party workman has not improved his conduct and attendance. Therefore, another charge sheet bearing No. BGZ/IRS/CS/11/88 dt. 4-4-1988 was issued to the I Party workman for unauthorised absence for 161 days. A departmental enquiry was conducted into the charges framed against the I Party workman and punishment of stoppage of one increment permanently was imposed vide final order No. BGZ/IRS/18567/88 dt. 25-10-88 of the Disciplinary Authority.
- (c) Again another charge sheet bearing No. BGZ/IRS/CS/14/89 dt. 28-4-1989 was issued to the I Party workman for his unauthorised absence aggregating to 323 days. After conducting departmental enquiry into the charge framed in the said charge sheet, punishment of stoppage of two increments permanently was imposed on the I Party workman vide order No. BGZ/IRS/23734 dt. 22-11-1989 of the Disciplinary Authority.

16. The next contention raised by the learned advocate for the II Party is that the Order of reference is misconceived and untenable. The reason for this submission is that there is absolutely no termination of service as shown in the schedule, as this is a case of voluntary retirement from the service in accordance with the Provisions of the Bipartite settlement and therefore the Order of reference is factually incorrect and the reference is liable to be rejected on this ground alone.

17. Though there is some element of acceptability in the submission of the learned advocate, we have to take a broader interpretation of the word invoked in the schedule. The LAW LEXICON, 1997 edition by Sri P. Ramanatha Aiyar defines termination as :

TERMINATION

"The word 'termination' cannot be said to have restricted meaning meant only for the cases of dismissal and removal words, 'termination' and 'removal' are interchangeable."

The Learned author further defines that the word termination cannot be said to have restricted meaning meant only for the cases of dismissal and removal. Words 'termination' and 'removal' are interchangeable.

18. In view of the above, there is no impediment for this Tribunal to give a finding on the schedule to the reference.

19. The next contention raised by Smt. Survamangala is by taking into consideration the previous conduct of the I Party in remaining absent previous to the present case demonstrates that he is not interested in working in the Bank. The learned advocate further submitted that this fact has been borne out by the records as this workman raised the industrial dispute in the year 1997 though he has been removed from service in the year 1990. Therefore he is guilty of committing laches which prima-facie shows that his intention to raised the dispute is not bonafide.

20. It is true that this workman has raised this dispute 7 years after his removal. He has not stated in his Claim Statement the reasons for delay in raising the dispute. Though the limitation has not been prescribed under the Industrial Disputes Act, the well laid principles of Law are that every dispute should be raised within a reasonable period failing which a person loses his right of file. Delay kills the right.

21. The question of belated claims shall be viewed in the facts and circumstances of each case. If the dispute is raised after a long lapse of time, it will not only upset the financial position, but, it will also have a unsettling effect.

22. The I Party has demonstrated his conduct more than once in absenting himself before this Tribunal without making any progress in this case.

23. Before concluding, it is necessary to answer one of the contentions raised by the workman that the order of the management amounts to retrenchment. This contention of the workman is without any merits. Clause 17 is included in Bipartite settlement after this inclusion was accepted by the management and various trade unions of several

banks. This amounts to a settlement under Sec. 18 of the Industrial Disputes Act and therefore the object of Clause 17 are binding on both parties. Whenever a person violates clause 17, his services come to an end automatically. Before treating as voluntarily retired, to adhere the principles of natural justice a notice is required to be issued and the intended reply shall be scrutinised. If workman after receipt of notice does not make any attempt to report for duty or send any explanation for his absence, clause 17 gives the right to the management to strike off his name from the rolls of the Bank treating him as voluntarily retired. In these circumstances the term 'retrenchment' is not applicable and therefore there is no violation of sec. 25F of the Act.

24. The Banking institution is delaying in financial transactions. The staff works in such institution shall render their service with utmost seriousness to the customers. The work will be distributed to each employee in their respective spheres. If one is on leave, even for a shorter period, there is bound to be dislocation of work. Therefore regularity to work is absolutely necessary except in inevitable circumstances. One cannot choose to be absent from work to satisfy his extra curricular activities.

25. Having regard to these facts and circumstances the management are justified in terminating the services of this workman as voluntary retirement. The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 जुलाई, 1999

का.प्र. 2160:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट का प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था ।

[सं. एल-12012/316/92-आई.आर. (बी-II)]
सनतन, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2160.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 5-7-99.

[No. L-12012/316/92-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE

Dated : 25-6-99

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 6/93

I PARTY

Shri C. Manchaiah,
No. 370, Out House,
North East of N. R. Mohalla,
MYSORE-570007.

II PARTY

The Deputy General
Manager,
Syndicate Bank, (Z.O.)
Gandhinagar,
Bangalore-9

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/316/92-IR (B-II) dated 19-1-93 on the following schedule.

SCHEDULE

"Whether the action of the management of Syndicate Bank is justified in terminating the services of Sri Manchaiah, a clerk from service w.e.f. 27-10-89? If not to what relief is he entitled?"

2. The first party joined the services of the second party as a Clerk on 12-1-1977. He has contended in his claim statement that he had clean service record of his honesty, deligency and sincerity throughout his career. However the management have issued a charge sheet dated 16-9-1987 making the allegation of mis-appropriation of Rs. 300/- which required to be remitted to the Form Loan Account of the customer. He has denied the charges.

3. The second party conducted a domestic enquiry through MW-1. The management having accepted the report have passed an order of discharge w.e.f. 27-10-1989. The workman initially questioned the validity of domestic enquiry on various grounds. He has further contended that the report of the enquiry officer is perverse order as the same is not supported by legal evidence and therefore acceptance of such report by the Disciplinary Authority and imposing the punishment of discharge is arbitrary and shockingly disproportion to the nature of charges alleged against him. He has also contended that the disciplinary authority failed to take into consideration his unblemished service record till this allegation is made.

4. The second party in their counter statement justified their action on the question of discharge which is in accordance with Clause 19-12(c) of the Bipartite Settlement. They have further contended that the enquiry was conducted in accordance with law, therefore there is no question of calling this enquiry as farce. They further contended the report of the enquiry officer was made on the assessment of the

evidence placed in the enquiry and therefore such report was accepted by the management and instead of an order of dismissal, which carries some stigma, the management was kind enough to pass an order of discharge.

5. Due to the contentions of the first party we have framed a preliminary issue to give a finding on the validity of domestic enquiry. After recording the evidence of the enquiry officer and this workman we gave a finding on this issue in favour of the management, Vide Order dated 18-11-98. In view of this order the parties are directed to address their arguments as it regards to the question of perversity, victimisation and disproportionate punishment.

6. The charge sheet was issued on 16-9-1987. The charge, in brief are that he has made a credit entry of Rs. 300/- on 10-2-1986 in the Farm Loan Account of H. S. Narasimha Setty and reduced the outstanding balance to Rs. 8,965/-. The said credit entry was fictitious as the branch did not receive any such credit towards the loan account as on 10-2-1986.

7. Due to this discrepancy which was found while tallying, the officials contacted Narasimha Setty who informed them that during February 1986 he has handed over a sum of Rs. 300 to this workman for credit towards his loan account. The further allegation is when this matter came to the knowledge of the Bank the workman has credited a sum of Rs. 300 on 13-6-1986. Therefore he has committed a misconduct coming under Clause 19.5(j) of the Bipartite Settlement.

8. This workman give his explanation on 3-10-1987 accepting the entry made by of Rs. 300/- in this account instead of another account. He had no idea to what account the amount pertains to and he has also no idea that when the entry was made. He has denied of having taken any amount from the customer. In the domestic enquiry the management examined Shri M. V. Kamath who conducted this investigation as MW-1, Narasimha Setty as MW-2 and the Manager of that Branch as MW-3. During the course of the enquiry seven documents were marked as management exhibits. The workman also examined himself as a witness.

9. This witness states in his evidence that an entry of crediting Rs. 300/- was made by Manchaiah on 10-2-1986 which entry was scored off by the Manager with examining the account. Narasimha Setty was contacted and he informed Manager on 13-6-1986 that he has paid Rs. 300/- to Manchaiah towards the Insurance premium and having found that he has now paid on verification on 13-6-1986 he gives a report MEX-3. This witness also speaks to the Bank that this workman discounted a cheque for Rs. 600/- and out of that he has credited Rs. 300/- to this account.

10. Narasimha Setty has altogether gives a different story. He says that he has paid Rs. 300/- as a loan and advised to credit the same to his loan account whenever it is possible by the workman. He has disputed MEX-3, the alleged complaint said to have been written by him, and he has been treated hostile witness and the management cross-examined him.

11. MW-3 manager of that branch who says that while tallying Farm Loan account a difference of Rs. 300/- is come to light and on verification of a credit entry for Rs. 300/- was found, and since the same was not authorised by any signature he has made enquiry with MW-2 who informed that he gave Rs. 300 for crediting to his Farm Loan account during February 1986. He has also given a evidence that Manchaiah crediting Rs. 300/- on 13-6-1986.

12. The workman contended in his evidence that he did borrow a sum of Rs. 300/- during January 1986 and on 10-2-1986 he came to the Bank and after entering some slips in the respective ledger including the account of Narasimha Setty he left the branch by applying two days CL. He stated that the credit slip entered on 10-2-1986 was just a co-incident which was scored off subsequently to put him in difficult situation.

13. If we analyse the evidence, MW-3 says that he having found a credit entry of Rs. 300/- and he scored off, of the said entry as it was not supported by Cashier and others. On 13-6-1986 they took a complaint from Narasimha Setty MEX-3 and having found that a sum of Rs. 300/- was credited on the very same day. Their presumption is that this workman has guilty of mis-using the amount given to him by Narasimha Setty. Admittedly this cannot be called as mis-appropriation. If we assess the evidence of Narasimha Setty he says that he has paid Rs. 300/- during January leaving the option to the workman to credit that amount to his account whenever it is convenient to the workman. No doubt the enquiry officer has come to the conclusion that Narasimha Setty is giving a false evidence and therefore he can rely on the evidence of MW-1 and MW-3 to reach that conclusion.

14. Initially it is found that this misconduct was discovered before the middle of 1986. The charge sheet was issued on 16-9-1987 i.e. altogether one year two months. The evidence of MW-1 does not discloses in what charge he conducted the investigation and when he completed his investigation. MW-3's evidence confine to findings of excess amount, therefore he struck off Rs. 300/- entered to the account of MW-2. There is no material that the said entry was struck off and who handled the accounts thereafter. The ledger of this account discloses a regular credit entry and after the alleged entry is struck off, there are two credit entries of Rs. 200 on 15-4-1986, 14-6-1986 and 13-6-1986, which alleged to be a credit made by this workman.

15. Initially the management have not explained why they have issued the charge sheet after such long lapse of delay. Therefore to this extent they are not justified in taking action, that admittedly they struck off the entry alleged to have made by him. Even if we accept that entry was a mistake, to that extent it is only a negligence and cannot be a misconduct under Clause 19.5(i). MEX-2 is the Leave Application dated 10-2-1986 for two days which was sanctioned on the very same day. The enquiry officer has failed to take all these factors into consideration before coming to a conclusion that the charges are proved. Though the transaction between Narasimha Setty and this workman are proved but the evidence altogether

demonstrate that it is not with the allegations made by the second party. It is no doubt that enquiry officer is at liberty to accept or refuse to take the evidence of any witness if he found that the party is not telling truth however the evidence of MW-1 and MW-3 is not sufficient to prove the mis-appropriation against this workman. To this extent the order of the enquiry officer is perverse.

16. The Disciplinary Authority who have accepted the report have not made any efforts to examine his previous records to give some benefit to this workman on that basis. Merely the disciplinary authority feels that the misconduct is very serious in nature, it does not absolve the responsibility to examine the previous records of the workman.

17. We are not trying to review the order of the enquiry officer but we make the records stright as to what should be the order in such given circumstances.

18. No doubt that once domestic enquiry was held fair and proper there should not be any interference to the findings unless it is perverse. There shall not be interference with the punishment unless it is shown it is disproportion and shocks the consigs of the tribunal.

19. Whenever a tribunal is asked to examine the justification of particular order, it exercises the judicial function. When a tribunal is exercising Judicial function it cannot close its eyes to the facts and circumstances of a case merely because the domestic enquiry was held to be fair and proper. The tribunal shall examine each circumstances to satisfy that the order of punishment does not call for interference. It should examine objectively on a particular set of circumstances, whether the order of dismissal is warned or not.

20. Admittedly there is a delay in issuing the charge sheet, there is perversity in the findings of the enquiry officer and lastly the disciplinary authority have not considered the previous record of this workman, merely forming the opinion that the action committed by him was serious in nature.

21. The intention of law is to see that these factors shall be examined objectively before giving an economic death sentence to the workman.

22. In view of facts and circumstances discussed above I am not inclined to examine the judgements produced by the second party in support of their contention. All these judgements are on the proved fact of misconduct.

23. In view of the above circumstances the benevolent provisions contained under Section 11A of the Industrial Disputes Act is to be extended in favour of this workman. In the result I make the following order :

ORDER

The order of discharge made by the second party is hereby set aside. The second party is directed to reinstate the workman to the position he was holding at the time of his discharge. There shall be continuity of service and all benefits as entitled if he had continued in service shall be extended in his favour.

Since this workman also contributed to this unhappy situation due to his contact with the customer, he is entitled to have back wages only at a rate of 50%.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 जुलाई, 1999

का.आ. 2161:-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार निडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, श्रमबन्ध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था ।

[सं. एल-12012/318/90-आई.आर. (बी-II)]
सनातन, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2161.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 5th July, 1999.

[No. I-12012/318/90-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, BANGALORE

DATED 22nd JUNE 1999

PRESENT :

JUSTICE R. RAMAKRISHNA
PRESIDING OFFICER

C.R. NO. 8/91

I PARTY

Shri N. Gopinath Kundva,
S/o Ramnath Kundva,
Near Corporation Bank,
Pane,
MANGALORE.

II PARTY

The Dy. General Manager,
Syndicate Bank,
Zonal Office, Junja Bldg.,
Lalbagh,
MANGALORE-575 003.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. I-12012/318/90-IR.B. (II) dated 18-02-1991 adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Syndicate Bank in dismissing Shri N. Gopinath Kundva, attender Zonal Office, Mangalore w.e.f. 1-2-1988 is justified? If not what relief the said workman is entitled to?"

2. The I party was appointed as an attender in the II party Bank. This workman was entrusted to discount the cheques drawn on other Banks and remmit the cash after they are being discounted.

3. On 14-3-1995, it is alleged that this workman in a perturbed mood, started crying and shouting inside the bank proclaiming that he is a big fraud and committed fraud in

this office. He is also said to have been uttered that he has committed frauds to the extent of Rs. 27,000/-. Immediately there after the bank has conducted pre-investigation and they found the involvement of this workman in his mis-appropriating to the extent of several thousands. He was kept under suspension before allegation of charge dated 29-10-1986 (Ex-M1) was issued making allegation of misconduct and misappropriation on 10 heads. The Charge Sheet runs to 9 pages.

4. The record discloses that this workman has not filed any reply to this charge sheet. Therefore the management have initiated a domestic enquiry by appointing one Shri Venkataraman as an enquiry officer. Since the workman expressed that he would defend himself without the assistance of any defence representative, after explaining the procedure of enquiry, the Enquiry Officer along with the Presenting Officer examined witnesses to prove the allegation of charges levelled against the workman. Though the workman pleaded guilty to the extent of misappropriating a sum of Rs. 7,500/- and has shown his ignorance as it relates to other charges the Presenting Officer decided to prove the allegation of charge by independent evidence. Consequent to this the management have examined several witnesses and the relevant documents were marked as Ex. as a contemporaneous evidence. After conclusion of the evidence the Enquiry Officer has prepared the report of the enquiry and submitted the same to the Disciplinary Authority. The Enquiry Officer reached the conclusion that the charges alleged against the workman are proved and therefore he is guilty of misconduct vide clause 19.5(j) of the bi-partite settlement.

5. The Disciplinary Authority accepted the report and issued show cause notice proposing the punishment of dismissal. After considering the representation made by the workman as per Ex-M4 and also after hearing him personally the disciplinary authority came to the conclusion that the misconduct committed by the workman are grave in nature and therefore the punishment of dismissal from the services was the only punishment that can be given, and accordingly he has been dismissed from the services of the bank with immediate effect.

6. The appeal filed before the appellate authority also came to be dismissed. The workman raised an Industrial Dispute which resulted in this reference.

7. The averments made in the statement by the I party to a large extent deals with the validity on Domestic Enquiry. Various contentions are raised to make it to understand that the Enquiry Officer without giving proper opportunity has conducted the enquiry only to deprive the right of the workman. As it regards to the conclusions arrived by the enquiry officer on the evidence, the allegation made in the claim statement is that the findings are perverse and bad in law. The other averments made in the claim statement is all together in the form of Mercy petition.

8. The II party in their counter statement have not only justified the mode of enquiry conducted by the enquiry officer but also contended that the misconduct proved against this workman is being serious not less than the order of dismissal is warranted in this case. Therefore they pray that there should not be any interference to the order passed by the Disciplinary Authority.

9. This Tribunal has framed a preliminary issue to give a finding on the validity of domestic enquiry, in view of the contentions raised by this workman in his claim statement. The management examined himself as WW 1. In fact the learned representative for the first party has taken too much pain to prove that the Domestic Enquiry was not fair. He has filed even a written arguments. This Tribunal after giving its utmost attention to the Oral evidence of the parties coupled with the proceedings maintained in the enquiry come to the conclusion that the enquiry was conducted properly by the II party. This order was made on 17-2-1999. There after the parties are directed to argue the case on merits, which includes, to point out perversity in the finding, unfair labour permits and victimisation.

10. The I party filed a written arguments to justify, than the findings of the enquiry officer was perverse. He has also relied on some case laws, in support of the contentions

raised by him. The II party also filed their written arguments supported by the case laws on the subject.

11. We have briefly narrated the facts and circumstances leading to the Orders of dismissal made against this workman. We have also upheld the validity on domestic enquiry as fair and proper. The workman has pleaded guilty to the extent of misappropriating Rs. 7,500 which according to him was later remitted to the Bank. The Enquiry Officer on the assessment of the evidence placed by the management Prima-Facie came to the conclusion that many of the charges have been independently proved though, the workman challenged those charges irrespective of his pleading guilty to a portion of the charge.

12. The written arguments filed by the first party is in the form of picking the question and answers here and there and there after giving an opinion of his own. Whenever the Court is required to examine a finding, in the light of the allegation of perversity it should examine the over all conclusion of the evidence recorded in the domestic enquiry. A isolation question and answer which does not have a strong bearing on the over all circumstances of a case cannot be taken to prove that there was perversity. The term perverse order means that an order passed without any proper evidence or an order passed by disregarding the evidence which was in favour of the workman. Therefore it cannot be held that the order is perverse only because the I party has made the allegation of perversity.

13. In V. T. Mandavkar and LIC and other in 1998 III L.L.J. (Supp.) page 599 a Learned Single Judge of Bombay High Court found in addition to plea of guilty the finding of the Enquiry Officer was found perverse held that the punishment of dismissal was harsh and disproportionate. The allegation of misconduct was only exchange of harsh words and causing disruption in the work.

14. In Richardson and Cruddas Ltd versus Association of Engineering Workers and Others, again a judgement of Bombay High Court, the learned judges of a bench considered application of Sec. 11-A by the Labour Court and the prayer of interference against such order was deprecated.

15. Against this the II party have contended in their arguments that the allegation of misappropriation and negligence against this workman was being proved, the proper punishment is dismissal which does not require any interference. It is also submitted that bank has lost confidence which is one of the improvement criteria for a bank employee and therefore on proved misconduct there cannot be any interference to the order of dismissal and the benevolent provisions of Section 11-A cannot be applied to a case of misappropriation.

16. In Union of India versus Parmananda and other Vol. 75 FJR 168, the Supreme Court as it regards to the adequacy of punishments has held that the Tribunals cannot interfere with the findings of the enquiry officer or competent authority unless they are arbitrary or perverse. Adequacy of punishment is not matter for the Tribunal unless it is Malafide. Employee guilty of fraudulent act of aggrandisement is unworthy of holding any post.

17. In State of Karnataka and others versus H. Nagaraj JT 1998 (9) SC 37 while dealing the proportionality of the punishment the Supreme Court held :-

"Principle of proportionality can be invoked regarding punishment only in a case where the punishment was totally irrational in the sense that it was on outrageous defiance of logic or moral standards. Such is not in the present case. Hence, the order of the Tribunal which is impugned before us is set aside and the order of the appellate authority is restored."

18. In Disciplinary Authority cum Regional Manager versus Nikunja Bihari Patnaik, the learned judges of the Supreme Court after having found the culprit, the bank officer involve in committing number of irregularities as it relates to functions of the bank have held breach of any of the legislations shall be deemed to misconduct and every officer or employee of the bank to take all possible steps to

protect the interest of the bank and discharge his duties with the utmost integrity, honesty, devotion and diligence and to do nothing which was unbecoming of a bank officer.

19. The law is uniform as it regards to Commission of misappropriation by any bank employee intentionally and with the open mind, is punishable with the order of dismissal. Any amount of remorse or repentance does not help in this act unless it is done innocently.

20. Having regards to these facts and circumstances the If party management are justified in dismissing the services of this workman on the proved misconduct. The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2162. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में, निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एन 12012/89/97 आई.आर. (बी-II)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2162.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 7-7-99.

[No. L-12012/89/97-IR(B-II)]
SANATAN, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

केस नं. : सीआईटी/बी-46/97

विज्ञप्ति संख्या : एल-12012/89/97/आई.आर. (बी-II)

दी प्रेसीडेंट, राजस्थान (स्टेट) बैंक वर्क्स आरगनाइजेशन
जरिए बैंक आफ महाराष्ट्र, एम.आई. रोड, जयपुर।

बनाम

दी जी.एम. देना बैंक, करोल बाग,

आर्य समाज रोड, कैलटोन जैम्बर, नई दिल्ली

उपस्थित : प्रार्थी की ओर से — कोई नहीं

अप्रार्थी की ओर से — कोई नहीं

पंचाट तारीख : 28-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के
जरिए निम्न विवाद इस अधिकरण को न्याय निर्णयन
हेतु निर्दिष्ट किया गया है :—

"Whether the action of Dena Bank is justified in not giving full scale of wages to Shri Dharam Veer Singh part-time sweeper since 1995 who is employed w.e.f. 7-7-89 when his junior workman Shri Salim Khan employed in 1995 and others were given full scale of wages in violation of Bi-partite Settlement dated 25-9-92 and principle of natural justice? If not, to what relief the workman is entitled?"

निर्देश आदेश दिनांक 16-11-97 को प्राप्त हुआ था, जिसके अनुसार अध्यक्ष राजस्थान (स्टेट) बैंक वर्क्स आरगनाइजेशन को निर्देश प्राप्ति के 15 दिन के अन्दर स्टेटमेंट आफ क्लेम प्रस्तुत करना था, परन्तु स्टेटमेंट आफ क्लेम प्रस्तुत नहीं किया गया, पक्षकारों को नोटिस जारी किये गये, अध्यक्ष, राजस्थान (स्टेट) बैंक वर्क्स आरगनाइजेशन पर रजिस्टर्ड पक्ष को जरिए नोटिस की तामील हो गई, परन्तु बावजूद तामील नोटिस के न तो वे उपस्थित यावे न स्टेटमेंट आफ क्लेम नियत दिनांक 21-6-99 को प्रस्तुत किया। आदेश में पत्रावली दिनांक 28-6-99 को नियत की गई, दिनांक 28-6-99 को न तो अध्यक्ष उपस्थित आये न ही स्टेटमेंट ऑफ क्लेम पेश किया गया, उक्त परिस्थितियों से ऐसा प्रकट होता है कि उक्त अध्यक्ष को क्लेम फाइल कराने में कोई रुचि नहीं है एवं ऐसा अनुमान लगाया जा सकता है कि पक्षकारों के बीच विवाद नहीं रहा है, उक्त परिस्थितियों में विवाद रहित पंचाट गरिया किया जाता है, पंचाट की प्रतिनवि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 को धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए। ह०

पोस्टासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2163. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-12012/119/97-आई आर (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2163.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 7-7-99.

[No. L-12012/119/97-IR(B-II)]
SANATAN, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

केस नं० : सी.जी.आई.टी./बी.-41/98

विज्ञप्ति संख्या : एल-12012/119/97/आई.आर. (बी-II)

उपाध्यक्ष, महा बैंक कर्मचारी संघ

जरिए बैंक ऑफ महाराष्ट्र, एम.आई. रोड, जयपुर

बनाम

सहायक महाप्रबन्धक, बैंक ऑफ महाराष्ट्र,

6/30-31, अजमल खान रोड,

करोल बाग, नई दिल्ली

उपस्थित : प्रार्थी की ओर से — कोई नहीं

: अप्रार्थी की ओर से — कोई नहीं

पंचाट तारीख : 28-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद न्याय निर्णयन हेतु इस अधिकरण को निर्देशित किया गया है :—

"Whether the action of the management of Bank of Maharashtra, New Delhi is justified in dismissing the services of Sh. Jagdish Prasad, Clerk vide their order dated 25-1-95? If not, to what relief the workman is entitled to and from what date?"

निर्देश आदेश दिनांक 9-12-97 को प्राप्त हुआ था, जिसके अनुसार विवाद उठाने वाले पक्षकार उपाध्यक्ष, महा बैंक कर्मचारी संघ को निर्देश आदेश प्राप्ति के 15 दिन के अन्दर स्टेटमेंट ऑफ क्लेम प्रस्तुत करना था, परन्तु स्टेटमेंट ऑफ क्लेम प्रस्तुत नहीं किया गया, उक्त उपाध्यक्ष को दिनांक 28-6-99 को स्टेटमेंट ऑफ क्लेम प्रस्तुत करने के लिए रजिस्टर्ड नोटिस भेजा गया, जो उसे प्राप्त हो गया परन्तु न तो वे स्वयं उपस्थित आये न ही स्टेटमेंट ऑफ क्लेम प्रस्तुत किया, जिससे ऐसा प्रकट होता है कि उन्हें क्लेम प्रस्तुत करने में कोई रुचि नहीं है। उक्त परिस्थितियों में ऐसा अनुमान लगाया जाता है कि पक्षकारों के बीच विवाद नहीं रहा है अतः विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह०/

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2164 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक

2146 GI/99—10

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल.-12012/200/97-आई.आर. (बी.-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2164.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 7-7-99.

[No. L-12012/200/97-IR(B-II)]

SANATAN, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

केस नं० : सी.आई.टी./बी.-21/98

विज्ञप्ति संख्या : एल-12012/200/97/आई.आर. (बी-II)

प्रेसीडेंट,

महा बैंक कर्मचारी संघ

42, पटेल कॉलोनी, जयपुर-302020

बनाम

असिस्टेंट जनरल मैनेजर,

बैंक ऑफ महाराष्ट्र, देहली रिजन,

6/30-31, डब्ल्यू.ई.ए., करोलबाग, दिल्ली

उपस्थित : प्रार्थी की ओर से-----कोई नहीं

अप्रार्थी की ओर से-----कोई नहीं

पंचाट तारीख : 24-4-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद इस अधिकरण को न्याय निर्णयन हेतु निर्देशित किया गया है :—

"Whether the action of the Asst. General Manager, Bank of Maharashtra, Delhi Region, 6/30-31, W.E.A., Karolbagh, New Delhi-110005 is justified in debarring to Sh. M.D. Samaria, Clerk permanently from cashier's allowance vide order dated 13-10-1993? If not, to what relief the said workman is entitled?"

पक्षकारों को नोटिस जारी किए गए प्रेसीडेंट, महा बैंक कर्मचारी संघ की ओर से बावजूब तामील रजिस्टर्ड नोटिस कोई उपस्थित नहीं आया और न ही स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया। जिससे ऐसा प्रकट होता है कि उसे क्लेम फाईल करने में कोई रुचि नहीं है। उक्त परिस्थितियों में ऐसा अनुमान लगाया जाता है कि पक्षकारों के बीच कोई विवाद नहीं रहा है अतः

विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह०/-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2165.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल.-12012/215/97-आई.आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2165.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 7-7-99.

[No. L-12012/215/97-IR(B-II)]
SANATAN, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,

जयपुर

केस नं. : सी.आई.टी/बी-6/98

विज्ञप्ति संख्या : एल-12012/215/97/आई.आर.(बी-II)

श्री सुरेश कुमार चौकसी

पुत्र श्री मिसरीलाल चौकसी,

गांव-कानाखेड़ा, कालान पोस्ट,

सांची, जिला रायसन-464661

वताम

रीजनल मैनेजर,

सैन्ट्रल बैंक ऑफ इंडिया,

इ-3/50, एरिरा कॉलोनी,

भोपाल-462001

उपस्थित : प्रार्थी की ओर से — कोई नहीं।

अप्रार्थी की ओर से — कोई नहीं।

पंचाट तारीख : 23-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद इस अधिकरण को न्याय निर्णय हेतु निर्देशित किया गया है :—

“Whether the action of the management of Central Bank of India in terminating the services of Sh. Suresh Kumar Chouksey, S/o Misrilal Choulsey w.e.f. May, 1989 is legal and justified? If not, to what relief the said workman is entitled?”

उक्त निर्देश दिनांक 28-8-98 को प्राप्त हुआ। श्रमिक को निर्देश प्राप्ति के अन्तर 15 दिवस स्टेटमेंट आफ क्लेम प्रस्तुत करना चाहिए था, परन्तु कोई क्लेम प्रस्तुत नहीं किया गया। श्रमिक को रजिस्टर्ड पत्र के जरिए नोटिस भेजा गया कि वह दिनांक 23-6-99 को स्टेटमेंट आफ क्लेम प्रस्तुत करे।

बावजूद तामील रजिस्टर्ड नोटिस के न तो श्रमिक आया और न ही कोई क्लेम प्रस्तुत किया गया, जिससे ऐसा प्रकट होता है कि उसे क्लेम प्रस्तुत करने में कोई रुचि नहीं है व ऐसा अनुमान लगाया जाता है कि उसके और विपक्षी के बीच कोई विवाद नहीं रहा है। उक्त परिस्थितियों में विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह०/-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2166.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोल्लम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/7/99 को प्राप्त हुआ था।

[सं. एल-12012/235-237/92-आई.आर.(बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2166.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 7-7-1999.

[No. L-12012/235-237/92-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

In the Court of the Industrial Tribunal, Kollam
(Dated, this the 2nd day of June, 1999)

Present

SRI. C. N. SASIDHARAN
INDUSTRIAL TRIBUNAL

IN

INDUSTRIAL DISPUTE NO. 30/97

Between

The Regional Manager, Central Bank of India, Regional
Office Pajamani Building, Trivandrum.

(By Sri. N. Sarath Chandra Menon, Advocate, Kollam)

And

Sri. P. A. Hamza, C/o H. B. Shenoy, General Secretary,
Cochin-Labour Union, Vatsal, Ernakulam.

(By S/s. H. B. Shenoy & Ashok B. Shenoy, Advocates,
Cochin)

AWARD

The Government of India as per Order No. S.O.L. 120/12/235-237/92-1K(B-11) dated 22-1-1997 have referred this industrial dispute for adjudicating the following issue:

"Whether the action of the management of Central Bank of India in terminating the services of Sri. P. A. Hamza w.e.f. 2-12-1991 and refusing to consider him for re-employment is legal and justified? If not, to what extent the said workman is entitled and from which date?"

2. The workman has filed a detailed claim statement and the contents are briefly as under: The workman was employed in the management Bank as a Peon from 21-11-1986 at Alleppey branch. He was not given any appointment letter though he was employed against a regular vacancy of Peon to do the regular and permanent nature of work. Though he was discharging all the duties of a permanent Peon he was not extended the privileges and benefits commensurate with the permanent Peons. He was treated as a temporary workman though he was continuously employed. That was done for depriving him the status and privileges of a permanent workman. He has requested several times to the Bank to regularise his service but management has not taken any steps in this regard. On the other hand the management retrenched him from the service w.e.f. 2-12-1991 in violation of the provisions of Law, All India Awards and Bipartite settlements. He was retrenched without complying any of the conditions in Sec. 25-F of the Industrial Disputes Act, 1947 (the Act for short) though he had put in five years of continuous service. He was not given any notice and not afforded pay in lieu of notice. No retrenchment compensation was also paid. The retrenchment is illegal and ab initio void. The management has also not complied the minimum conditions laid down in paras. 522, 23 and 24 of the Sashtri Award. Retrenchment is therefore illegal and void. Further while retrenching the workman the management has retained workmen much junior to him and regularised in permanent cadre. Thus Sec. 25-G of the Act and para. 507 of the Sashtri Award have been violated rendering the retrenchment illegal and unjust. The management has also violated Sec. 25-H of the Act, para. 493 of the Sashtri Award and clause 20.12 of the First Bipartite settlement by taking new hands in service without considering this workman. The management has conducted a written test and interview for absorption of temporary workmen in permanent cadre without considering this workman. Workmen who were eligible for absorption in terms of the circulars dated 12-3-1991 and 20-9-1993 issued by the Bank were not called for the test and interview including this workman. He has satisfied the conditions prescribed by circular No. C 622 and is eligible to be absorbed/regularised in permanent cadre even without any test and interview since he has put in more than 240 days of service during a period of consecutive 12 months. He is entitled to be reinstated in service.

3. The management opposes the claim of the workman. The contents of the management are briefly as under: Sri. Hamza was not a 'workman' under the management but he was engaged for short periods on daily wages. The claim of the workman that he was employed from 21-11-1986 against a regular vacancy of Peon is false. He was engaged only as casual basis on daily wages exclusively for the purpose of cleaning the premises. He was not given any permanent nature of work continuously. Since he was engaged on casual basis, no appointment letter was issued to him. He was not retrenched as alleged and the question of retrenchment arises only when engagement was on a regular basis. The provisions of the Act are not applicable in this case and the management has not violated any provisions of the Act. He did not satisfy the eligibility conditions laid down in the Central Office circular and hence the allegation that he was not afforded chance to appear for the test for absorption is unfounded. The workman has not put in more than 240 days in service as claimed. The management denies all other allegations of the workman in the claim statement. According to the management the workman is not entitled to any relief prayed for.

4. The workman has filed a rejoinder disputing the case pleaded by the management and reaffirming the case of the workman. He has also stated in detail the number of days worked during each year from 1986 to 1991.

5. The workman examined himself as WW1. Exts. W1 to W6 have also been marked on his side. The general secretary of the union representing the workman has also given evidence as WW2 in support of the case of the union. The Senior Manager of the Alleppey branch of the management Bank has given evidence and Exts. M1 to M3 have been marked in support of the case as MW1 of management.

6. The union is attacking the termination of the workman from the service of the management. In support of the claim of the union the workman as WW1 has deposed that he was working as Peon in the Alleppey branch of the management Bank from 23-11-1986 that he is now without employment and that he was terminated from service on 2-12-1991. According to him he had worked 743 days and continued employment for 240 days within 12 months period between July 1989 and June 1990. He has further stated that he had rendered all the duties of a permanent Peon in the Bank and stated the details as well. According to him no appointment letter was given and at the time of termination of service no notice was also given. Further compensation and notice pay were also not paid. With regard to payment of wages he has stated that he was drawing wages after affixing signature in revenue stamp in the voucher and vouchers are in the custody of the Bank. This witness has proved a statement showing the details of the total number of days worked by him in the Bank as Ext. W1. Ext. W1 shows the number of days worked by the workman in the Bank during the period 1986 to 1991. This witness has proved Exts. W2 to W6-series including five circulars issued by the management regarding absorption of temporary hands. It is also stated that the management Bank has conducted test and interview for selection of temporary staff in March 1993 after terminating the service of the workman for which he was not invited. According to him he has registered his name with Employment Exchange.

7. The general secretary of the union has deposed as WW2 in support of the claim of the union particularly the service conditions and mode of absorption of temporary employees. This witness has stated that the management Bank used to appoint persons as temporary Peon and that clause 493 of Sashtri Award states the appointment and service conditions of temporary employees and as per that a register should be maintained in respect of temporary staff with all particulars of employee. As stated by the witness as per clause 493 of Sashtri Award when a person is appointed a letter should be given stating the period of appointment and salary and as per clause 516 Service Book of the employee is to be maintained, as per clause 312 the attendance of the employee is to be recorded in the Muster Roll, as per clause 4 of clause 522 when an employee is terminated 14 days notice should be given and as per sub-clause 5 the manager should give discharge certificate to the employee. If the appointment is for

unlimited period one month notice is to be given as per sub-clause (1) clause 524. This witness has also stated about the circulars issued by the management for absorption of temporary employees and that the management Bank is even now appointing temporary staff. According to WW2 an employee who has worked 240 days in a period of 12 months is eligible to be absorbed in service in permanent post without test and interview and those who have completed 180 days could be appointed with test and interview as per the circulars issued by the management. Further if a person is recruited from Employment Exchange he can be appointed in the Bank on completion of 60 days work after test and interview.

8. The management has examined MW1 who is the Senior Manager of the Alleppey branch to controvert the evidence of union. According to this witness casual employees were engaged for the purpose of cleaning and maintenance of branch and they are not given the salary and other allowance payable to permanent staff and that they are not engaged in the permanent vacancies. This witness has stated that the workman has not worked on all the dates mentioned in Ext. W1 statement. MW1 has proved Ext. M1 register of casual employment. M2-series of Miscellaneous vouchers for the period from 1-7-1989 to 30-6-1990 and Ext. M3 which is stated as the Biodata of the workman in this case. According to this witness as per Exts. M1 to M3 the workman in this case has not worked 240 days from July 1989 to June 1990. He has admitted that he has not verified Ext. M2 vouchers and not checked those vouchers with the Profit and Loss Account or with the Analysis Book. He has deposed that Ext. M3 is prepared on the basis of the register maintained in the Bank at that time and he has not counter checked Ext. M3 with M1 or with M2 vouchers. He has also stated that there is no reason for the non production of the forwarding letter which was sent along with Ext. M3 and that the forwarding letter can be produced. This witness has admitted that he has not calculated number of days worked by the workman as per Ext. M2-series.

9. As stated above it has come out in evidence that the workman had worked more than 240 days during the period of 12 months from July 1989 to 1990 and the workman has proved Ext. W1 statement to support his claim. To controvert this the management has produced Ext. M2-series vouchers just for a period of one year from 1-3-1989 to 30-6-1990 without any vouchers or registers showing payments made prior to the period covered by Ext. M2-series. Even according to MW1 these vouchers were not checked with Profit and Loss Account or with the Analysis Book. In the absence of any supporting registers and vouchers showing all payments effected to the workman through vouchers during the period in question particularly on the ground that the management is the custodian of such records, Ext. M2-series and the evidence of MW1 cannot be acted upon to decide the number of days worked by the workman. The only reasonable conclusion which can be arrived at in these circumstances is that the workman had worked more than 240 days as stated in Ext. W1 statement. Even the management has no case that the workman is in possession of any records and the management who is in possession all the relevant records failed to produce the same in order to enable this court to accept the case of management and to reject the claim of the workman regarding the number of days worked by him. In this statement of affairs I accept the evidence of the workman supported by Ext. W1 statement and hold that he had worked in the management Bank more than 240 days during a spell of 12 months period.

10. The management, in order to defeat the claim of the workman, placed much reliance on Ext. M3 which is described as Biodata of temporary employment of the workman furnished to the Cochin Regional Office of the Bank from the Alleppey Branch Manager. As stated by MW1 as per Ext. M3 the workman had worked only 189 days. It is noticeable that original of Ext. M3 has not been produced and the forwarding letter sent along with Ext. M3 is also not forthcoming. There is no explanation for the non production of original of Ext. M3 and the forwarding letter. It can only be concluded that the management has not produced original of Ext. M3 with the forwarding letter because if produced that would prove against the case of management. No doubt management has produced Ext. M1 Register which is supporting Ext. M3. But the management has not produced the relevant vouchers for the entire period covered by the period stated in Ext. M3. In the absence of the vouchers Ext. M1 cannot also be acted upon. In these circumstances

the case of management on the basis of Exts. M1 and M3 cannot be accepted in preference to the evidence of workman stated earlier.

11. The management has raised a contention that the workman in this case has worked only as a casual employee for cleaning the premises, he has not discharged the duties of temporary employee and he was never a temporary employee in the Bank. This contention is against the document produced by the management itself. Ext. M3 is described as Biodata of temporary employment furnished to Cochin Regional Office in terms of Central Office circular dated 20-9-93 wherein the details of the working days of the workman are stated. Ext. M3 itself negates the case of management that the workman was not in temporary employment. Further the management has not produced any register to show that the workman is described as casual employee and not temporary employee. Therefore this contention is devoid of merit. It is thus clear that the workman was engaged as a temporary employee in the regular service of the Bank.

12. I shall now pass on to the question of termination and the relief prayed for. As held above the workman was employed as a temporary employee. According to the learned counsel for the workman the management has violated the provisions in the Sastri Award concerning temporary employee and as a matter of fact the management has violated the relevant provisions and Sec. 25-F of the Act while terminating the services of the workman. The management has not maintained register stating all the particulars of the workman as provided in clause 493 of the said award. The period of appointment and salary of the workman was also not recorded and he was not given letter with those details. No Service Book was also maintained as per clause 516. Further as enumerated in clause 312 the attendance of the workman should be recorded in the Muster Roll but there is nothing to show that the management has done so. The management has thus violated the relevant provisions of the Sastri Award while utilising the service of the workman as temporary employee. In the case of temporary employee while terminating his service 14 days notice should be given as per sub clause (4) of clause (4) of clause 522 and as per sub clause (5) he should have been given Discharge certificate signed by the manager. As per clause 524 sub clause (1) if the appointment is for unlimited period one months notice should be given for termination. In the present case admittedly the management has not complied the above clauses while terminating the service of the workman. The workman was also not given notice of retrenchment nor was the workman afforded pay in lieu of notice. No retrenchment compensation was also paid. Thus the management has not complied the conditions stipulated in Sec. 25-F of the Act though he is having about five years service. Therefore the termination is illegal and ab-initio void.

14. Now comes the question of relief. It has come out in evidence through WW2 that the workman is eligible to be regularised in the service without interview and test in permanent post as he has completed 240 days work within a period of 12 months. This claim of the union is supported by Ext. W-6 series circulars issued by the management codifying the rights and entitlement for regularisation in the case of temporary employee Ext. W6(4) circular dated 12-3-1991 deals with absorption of temporary employees and the relevant clauses reads thus :

Employees who have put in 240 days Temporary service.

3.1 Temporary employees who have put in 240 days of temporary service in any continuous period of 12 months after 1-1-1982 upto 31-12-1990 will be considered for absorption in the immediate available vacancies without any test and interview.

4. Employees who have worked for 180 days from 1-1-87 to 24-12-1987. Temporary employees who have worked for 180 days during the period from 1-1-1987 to 24-12-1990 and are registered with the Employment Exchange but have not been sponsored will be called to appear in the immediate sub-staff recruitment test as and when held.

15. As I have held above the workman has completed 240 days of service as a temporary employee within a period of 12 months from July 1989 to June 1990. There is no dispute that he has registered his name in the Employment Exchange. Therefore as per clause 3.1 quoted above he is

eligible to be considered for absorption without any test and interview. Even assuming that the workman has not completed 240 days of service he would come within the eligible category as per clause (4) quoted above to be called for test and interview in the immediate sub staff recruitment as and when held since he has completed 189 days service even according to the management. But the management has not invited him so far for test though the management has conducted test and interview for selection of staff subsequent to the termination of service of the workman. The action of management is therefore highly illegal and unjustified.

16. For the foregoing discussion, I hold that the workman Sri Hamza has completed more than 240 days of service within a period of 12 months under the management and while terminating the service of the workman the management has violated Sec. 25-F of the Act as well as clauses 522 to 524 of the Sasthri Award. Therefore he is entitled to be reinstated in service with back wages. I further held that in the light of clause 3.1 of Ext. W6(4) circular the management should take appropriate steps for absorption of the workman in regular service without test and interview.

An award is passed in the above terms.

C. N. SASIDHARAN, Industrial Tribunal

Witnesses examined on the side of the workmen

WW1. Sri P. A. Hamza

WW2. Sri D. John.

Witness examined on the side of the Management

MW1. Sri S. S. Iyer.

Documents marked on the side of the workman

Ext. W1. Copy of letter addressed to Asst. Labour Commissioner (Central), Trivandrum from Hamza.

Ext. W2. Minutes of the discussion held by Asst. Labour Commissioner (Central) on 27-2-1992 in the presence of management and their workmen Sri Hamza and three others.

Ext. W3 Copy of the failure and conciliation report of Asst. Labour Commissioner, Trivandrum to Secretary to Government of India, New Delhi dated 27-5-1992.

Ext. W4 Photostat copy of letter issued to the Regional Manager of the Management Bank from the general secretary of the union from the Government of India dated 2-12-1992.

Ext. W5. Photostat copy of the judgment of the High Court of Kerala in QP. No. 13778/94.

Ext. W6. series (5 nos.) Circulars issued by the Central office and the Regional office of the management Bank.

Documents marked on the side of the Management

Ext. M1. Register of casual employment and wages paid
Ext. M2. series (287 bundles). Vouchers for the period from 1-7-1989 to 30-6-1990.

Ext. M3. Photostat copy of Bio-data of temporary employment of Sri Hamza furnished to the Regional office of the management from Alleppey branch dated 5-10-1993.

नई दिल्ली, 8 जुलाई, 1999

का.भा. 2167.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धन के संघर्ष नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण कोल्लम के

पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-12012/235/237/92-आई.आर.(बी-II)]

सनतान, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2167.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 7-7-99.

[No. L-12012/235/237/92-IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated this the 21st day of June, 1999)

Present :

Sri C. N. Sasidharan, Industrial Tribunal
IN

INDUSTRIAL DISPUTE NO. 31/97

BETWEEN

The Regional Manager, Central Bank of India,
Regional Office Rajadhani Buildings, Trivandrum.

(By Sri N. Sarath Chandramenon, Advocate,
Kollam).

AND

Sri C. Kunjumon, General Secretary, Kochin
Labour Union, Vatsal, Krishnaswamy Road,
Kochi.

(By S/s. H. B. Shenoy & Ashok B. Shenoy, Advocates, Cochin).

AWARD

The Government of India as per Order No. S.O.L-12012/235-237-92-D(BII) dated 29-7-1997 have referred this industrial dispute to this Tribunal for adjudicating the following issue :

"Whether the action of the management of Central Bank of India in terminating the services of Sri C. Kunjumon w.e.f. 2-12-1991 and refusing to consider him for re-employment is legal and justified? If not, to what relief the said workman is entitled and from which date?"

2. Sri C. Kunjumon, the workman in this case, has filed claim statement advancing the following contentions : The workman was employed as a Peon at Kollam branch of the management Bank from May, 1985 and also worked at Sakthikulangara branch. His service conditions are governed by All India Awards and Bipartite settlement. Though he was employed against a regular vacancy of Peon to do the regular

and permanent nature of work, he was not given any appointment letter. He had discharged all the duties of a permanent Peon in a permanent vacancy and he was treated as a temporary workman though he was continuously employed. He requested on several times to regularise his services in permanent cadre. But the management has not taken any steps in this direction. On the other hand the management retrenched his services w.e.f. 28-2-1989 in violation of the provisions of law. All India Awards and Bipartite settlement. He was discharged without complying any of the conditions in Sec. 25-F of the Industrial Disputes Act (the Act for short) even though he had put in nine years of continuous service. No notice of retrenchment was given nor was the workman offered pay in lieu of notice. No retrenchment compensation was also paid to him. The retrenchment is therefore illegal and ab initio void. Further the management has not complied the minimum conditions laid down in para 522 to 524 of the Sasthri Award on this account also retrenchment is illegal and void. The management has retained workmen such junior to this workman in service and regularised in permanent cadre. Thus the management has violated Sec. 25-G of the Act and also para 507 of the Sasthri Award. The management has taken new hands in service without considering this workman and without affording him an opportunity of re-employment. This action of management is illegal and violative of Sec. 25-H of the Act and para 493 of the Sasthri Award and clause 20.12 of the First Bipartite settlement. The workman was not allowed to sign the attendance register nor is his service records maintained by the management. There is no justification for retrenching the workman. This workman satisfied the conditions prescribed by circular No. C. 622 dated 12-3-1991 of management and is eligible to be absorbed in permanent cadre even without any written test or interview since he has put in more than 240 days of service during a period of consecutive 12 months. The prayer is for reinstatement in service with backwages, permanency and all other benefits.

3. The management contests the matter and their contentions are as below : Sri Kunjumon was not a workman of the management and he was not employed as a Peon from May, 1985. He was engaged on a casual basis for short periods on daily wages and not engaged against a regular vacancy. He was not continuously employed and was not doing any permanent nature of work. He was not retrenched as alleged and the question of retrenchment arise only when the engagement is on a regular basis. He has never been in continuous service as per the provisions of the Act and hence those provisions are not applicable here. The management has not violated any such provisions and not appointed persons junior to him. Since he was engaged as on casual basis, he was not given any appointment letter. He was not a regular employee and therefore the allegation that payment in lieu of notice, retrenchment compensation etc. were not given do not require consideration. He was not called for written test for absorption in permanent cadre since he did not satisfy the eligibility conditions laid down in Central office circulars. The management denies the claim that the workman has put in more

than 240 days service during a period of consecutive 12 months. According to the management this workman is not entitled for any of the reliefs prayed for.

4. The workman has filed a rejoinder disputing the contentions of the management and re-affirming the case pleaded by him. The workman has further stated the number of days worked by him in each year from 1982 to May, '89.

5. The evidence consists of both oral and documentary. The workman examined himself as WW1. Exts. W1 to W5-series have been marked on his side. No evidence has been let in on the side of management. However reliance was placed on a document marked as Ext. M1 in the connected case in I. D. 32/97.

6. The workman in support of his claim has deposed that he entered service in the management Bank in May, 1980 and continued service till 28-2-1989, the day on which he was retrenched from service. According to him he had worked 1388 days in the Bank and completed 245 days of continuous service from May 1982 to May 1989. He has discharged all the duties of a permanent Peon and given the details of such duties. According to him he was not given appointment letter that he was recruited through Employment Exchange and that the management has not served him any notice or notice pay or retrenchment compensation while terminating his service. He has further stated that after terminating him the management has regularised the service of Sri Rober who is junior to him. This witness has proved Ext. W1 to W5-series. Ext. W1 is a copy of statement submitted by the workman before the Asst. Labour Commissioner (Central) in connection with this dispute wherein the details of the number of days worked by him in the Bank from 1982 to May 1989 are stated in detail. Exts. W2 to W4 are documents pertaining to the reference of this dispute. Ext. W5-series are circulars issued by the management and as per one of this circular dated 12-3-1991 he is entitled to be absorbed in service even without test and interview. He has also stated that after termination of his service he is without any employment. He has deposed that the details stated in Ext. W1 were collected from a book in which he had noted down the dates on which he had worked in the Bank.

7. The workman is claiming reinstatement in service contending that his termination is illegal and violative of the provisions of the Act, Sasthri Award and Bipartite settlement. It has come out in evidence through the workman that he had worked 1388 days for the Bank from May 1980 to April 1989 and completed 245 days of continuous service from May 1982 to May 1984. According to him he had discharged all the duties of a permanent Peon and given details of such duties. In support of this claim the workman has proved Ext. W1 statement wherein the details of the number of days worked by him are stated. He has deposed that such details are stated in Ext. W1 from a small book wherein he had noted down the date while he had worked in the Bank. In order to establish the above statement of the workman he had sought production of relevant registers, vouchers etc. which the management Bank is bound

to maintain. But the management has not produced any such documents on the plea that those documents are pretty old. To substantiate this contention the management has not adduced any evidence. However management has placed reliance on a document produced and marked as Ext. M1 in the connected case I.D. 32/97. This is a copy of guidelines issued by the management regarding preservation of Bank records. In that case and in the instant case the facts and contentions are same. The only difference is the name of the workmen in both the cases. In I.D. 32/97 the management witness has admitted that the records called for by the workman do not come within the purview of the aforementioned guidelines and there are no guidelines regarding the period of preservation of such records. In these circumstances it can only be concluded that the management has not produced the records called for by the workman purposely because if produced those would prove against the case of management. Even the management has no case that the workman is in possession of any records and the management who is the custodian of the relevant records failed to produce the same to substantiate the case of management and thereby enabling this court to reject the claim of the workman regarding the total number of days worked by him. In the absence of such records and in the light of the above circumstances the only reasonable conclusion which can be arrived at is that the workman had worked more than 240 days within a period of consecutive 12 months on two occasions as stated in Ext. W1 statement. Therefore I accept the evidence of workman supported by Ext. W1 and the other circumstances stated above and hold that he had worked in the management Bank more than 240 days continuously during a period of consecutive 12 months on two occasions.

8. The management has raised a contention that the workman in this case has worked only as a casual employee and he has not discharged the duties of a permanent employee and he had never been a temporary employee in the Bank. The definite case of the workman is that he had worked as a temporary employee and discharged all the duties of a permanent Peon in a permanent vacancy. But the management has not produced any documents to prove it otherwise. Further as per clause 508 of Sasthri Award and para 20.7 of First Bipartite settlement there is no casual employee. In this state of affairs this contention of management is devoid of merit. It is thus clear that the workman was engaged as a temporary employee in a permanent vacancy and discharged all the duties of a Peon as pleaded by him.

9. I shall now pass on to the question of termination and the relief prayed for. As held above the workman was employed as a temporary employee. According to the learned counsel for the workman the management has violated the provisions in the Sasthri Award concerning temporary employee and also violated relevant provisions such as Sec. 25-F and H of the Act while terminating the services of the workman. Admittedly the management has not maintained register stating all the particulars of the workman as provided in clause 493 of the Sasthri Award. He was not given any appointment order as per the Sasthri Award. The period of appointment and salary of the workman were also not recorded and he

was not given letter with those details as contemplated in clause 495 of the said award. No Service Book was also maintained as per clause 516. Further as enumerated in clause 312 the attendance of the workman should be recorded in the Muster Roll but there is nothing to show that the management has done so. The management has thus violated the relevant provisions of the Sasthri Award while utilising the service of the workman as a temporary employee. Since no records were maintained as stated above though mandatory, adverse inference is necessarily to be drawn in his case. In the case of temporary employee while terminating his service 14 days notice should be given as per sub-clause (4) of clause 522 and as per sub-clause (5) he should have been given discharge certificate signed by the manager. As per clause 524 sub-clause (1) if the appointment is for unlimited period one month's notice should be given. In the present case admittedly the management has not complied the above clauses while terminating the service of the workman. The workman has also not given notice of retrenchment nor was he afforded pay in lieu of notice. No retrenchment compensation was also paid. Thus the management had not complied the conditions stipulated in Sec. 25-F of the Act though he had put in nine years of service. It is also noticeable that the management has absorbed in service Sri Robert who is junior to the workman and the workman was not called for any test and interview for selection of candidates after terminating him. There is thus violation of Sec. 25-H of the Act also. In view of what is stated above the termination of the workman from the service of the management is illegal and ab initio void.

10. Now remain the question of relief. The workman has placed reliance on Ext. W5-series circulars in support of his contention that he is eligible to be regularised in service even without test and interview since he had completed 240 days of work within a period of 12 months repeatedly. Ext. W5-series circulars are issued by the management codifying the rights and entitlement for regularisation in the case of temporary employees. The circular dated 12-3-91 [Ext. W5 (4)] deals with absorption of temporary employees and relevant clauses read thus :

Employees who have put in 240 days temporary service

3.1 "Temporary employees who have put in 240 days of temporary service in any continuous period of 12 months after 1-1-1982 upto 31-12-1990 will be considered for absorption in the immediate available vacancies without any test and interview."

Employees who have worked for 180 days from 1-1-1987 to 24-12-90

4. "Temporary employees who have worked for 180 days during the period from 1-1-1987 to 24-12-90 and are registered with the Employment Exchange but have not been sponsored will be called to appear in the immediate sub-staff recruitment test as and when held."

As held by me above the workman has completed more than 240 days of service repeatedly as a temporary employee within a period of consecutive 12

months from 1982 May to 1984 May and also from 1984 May to 1985. There is no dispute that he has registered his name in the Employment Exchange. Therefore as per clause 3.1 quoted above he is eligible to be considered for absorption without any test and interview. Even assuming that the workman has not completed 240 days service, he would come within the eligible category as per clause 4 quoted above to be called for test and interview in the immediate sub-staff recruitment as and when held since he has completed 180 days of service which is not disputed also. But the management has not invited him so far for test though the management has conducted test and interview for a selection of sub-staff subsequent to the termination of the service of the workman. The action of management is therefore illegal and unjust.

11. In view of what is stated above, I hold that the workman in this case had worked more than 240 days within a period of consecutive 12 months repeatedly in the service of the Bank and the management while terminating the services of the workman has violated Section 25-F of the Act as well as clauses 522 to 24 of the Sastri Award. Further the management has also violated Section 25-H of the Act. The action of management is highly illegal and unjust. Therefore he is entitled to be reinstated in service with backwages. I further hold that in the light of clause 3.1 of Ext. W5(4) the management should take appropriate steps for absorption of the workman in regular service without test and interview at the earliest.

An award is passed in the above terms.

C. N. SASIDHARAN, Industrial Tribunal.

APPENDIX

Witness examined on the side of the Workman :

WW1. Sri. C. Kunjumon.

Documents marked on the side of the Workman:

Ext. W1.—Copy of statement submitted to the Asst. Labour Commissioner (Central) Trivandrum from the workman Sri. Kunjumon dated 30-3-1992.

Ext. W2.—Copy of the minutes of discussion held on 27-2-1992 in the presence of Asst. Labour Commissioner (Central) between the management and their workman including the workman in this case.

Ext. W3.—Failure of conciliation report addressed to the Secretary, Government of India, New Delhi from Asstt. Labour Commissioner (Central), Trivandrum dated 27-5-1992 with copy to the workman Sri. Kunjumon.

Ext. W4.—Copy of letter issued to the management and the workman Sri. Kunjumon from the Ministry of Labour, Government of India, New Delhi dated 2-12-1992.

Ext. W5.—Series (5 nos.) Copies of circulars issued by the Central Office and Regional offices of the management Bank on various dates.

मई दिल्ली, 8 जुलाई, 1999

का.आ. 2168.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध में निदेशों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण कोलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-99 को प्राप्त हुआ था।

[सं. एल-12012/235-237/92-आई.आर.(बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2168.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman which was received by the Central Government on 7-7-99.

[No. L-12012/235-237/92-IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 7th day of June, 1999)

PRESENT :

Sri. C. N. Sasidharan, Industrial Tribunal.

IN

Industrial Dispute No. 32/97

BETWEEN

The Regional Manager, Central Bank of India, Regional Office, Rajadhani Buildings, P.B. No. 5891, Fort Thiruvananthapuram, Pin : 695 823.

By Sri. N. Sarat Chandra Manon, Advocate, Kollam-13.

AND

K. V. Sudhakaran, Karaveetil Thekkathil, Karicode, T.K.M. College P.O. Kollam-5.

By S/Sri H. B. Shenoy & Ashok B. Shenoy, Advocates, Cochin.

AWARD

The Government of India as per Order No. L-12012/235-237/92, dated 2-12-1992 have referred this Industrial Tribunal to this Tribunal for adjudicating the following issue :—

“Whether the action of the management of Central Bank of India in terminating the services of Sri K. V. Sudhakaran w.e.f. 2-12-91 and refusing to consider him for re-employment

is legal and justified? If not, to what relief the said workman is entitled and from which date?"

2. Sri. K. V. Sudhakaran, the workman in this case has filed claim statement advancing the following contentions. The workman was employed as a Peon at Kollam branch of the management Bank from May 1985 and also worked at Kadappakkada branch. His service conditions are governed by All India Awards and Bipartite settlement. Though he was employed against a regular vacancy of Peon to do the regular and permanent nature of work, he was not given any appointment letter. He had discharged all the duties of a permanent Peon in a permanent vacancy and he was treated as a temporary workman though he was continuously employed. He requested on several times to regularise his services in permanent cadre. But the management has not taken any steps in this direction. On the other hand the management retrenched his services w.e.f. 15-4-1989 in violation of the provision of law, All India Awards and Bipartite settlement. He was discharged without complying any of the conditions in Sec. 25-F of the Industrial Disputes Act, ('the Act' for short) even though he had put in 4 years of continuous service. No notice of retrenchment was given nor was the workman offered pay in lieu of notice. No retrenchment compensation was also paid to him. The retrenchment is therefore illegal and abinitio void. Further the management has not complied the minimum conditions laid down in paras 522 to 524 of the Sasthri Award on this account also retrenchment is illegal and void. The management has retained workmen much junior to this workman in service and regularised in permanent cadre. Thus the management has violated Sec. 25-G of the Act and also para 507 of the Sasthri Award. The management has taken new hands in service without considering this workman and without affording him an opportunity of re-employment. This action of management is illegal and violative of Sec. 25-H of the Act and para-493 of the Sasthri Award and clause 20.12 of the First Bipartite settlement. The workman was not allowed to sign the attendance register nor is his service records maintained by the management. There is no justification for retrenching the workman. This workman satisfied the conditions prescribed by circular No. C. 622 dated 12-3-1991 of management and is eligible to be absorbed in permanent cadre even without any written test or interview since he has put in more than 240 days of service during a period of consecutive 12 months. The prayer is for reinstatement in service with back wages, permanency and all other benefits.

3. The management contests the matter and their contentions are as below : Sri. Sudhakaran was not a workman of the management and he was not employed as a Peon from May 1985. He was engaged on a casual basis for short periods on daily wages and not engaged against a regular vacancy. He was not continuously employed and was not doing any permanent nature of work. He was not retrenched as alleged and the question of retrenchment arise only when the engagement is on a regular basis. He has never been in continuous service as per the provisions of the Act and hence these provisions are not applicable here. The management has not violated any such provisions

and not appointed persons junior to him. Since he was engaged as on casual basis, he was not given any appointment letter. He was not a regular employee and therefore the allegation that payment in lieu of notice, retrenchment compensation etc. were not given do not require consideration. He was not called for written test for absorption in permanent cadre since he did not satisfy the eligibility conditions laid down in Central office circular. The management denies the claim that the workman has put in more than 240 days of service during a period of consecutive 12 months. According to the management this workman is not entitled for any of the reliefs prayed for.

4. The workman has filed a rejoinder disputing the contentions of the management and re-stating the case pleaded by him. The workman has further stated the number of days worked by him in each year from 1985 to 1989.

5. The evidence consists of both oral and documentary. The workman examined himself as WW1. Exts W1 to W5-series have been marked on his side. The Senior Manager of the Kollam branch of the management was examined as MW1 and Exts. M1 document was marked in support of the case of management.

6. The workman in support of his claim has deposed that he entered service in the management Bank in May 1985 and continued service till 15-4-1989, the day on which he was retrenched from service. According to him he had worked 587 days in the Bank and completed 249 days of continuous service from 1985 September to 1986 August. He has discharged all the duties of a permanent Peon and given the details of such duties. According to him he was not given appointment letter that he was recruited through Employment Exchange and that the management has not served him any notice or notice pay or retrenchment compensation while terminating his service. He has further stated that after terminating him the management has regularised the service of Sri Robert who is junior to him. This witness has proved Ext. W1 to W5-series. Ext. W1 is a copy of statement submitted by the workman before the Assistant Labour Commissioner (Central) in connection with this dispute wherein the details of the number of days worked by him in the Bank from 1985 to 1989 are stated in detail. Exts. W2 to W4 are documents pertaining to the reference of this dispute. Ext. W5-series are circular issued by the management and as or one of this circular dated 12-3-1991 he is entitled to be absorbed in service even without test and interview. He has also stated that after termination of his service he is without any employment. He has deposed that the details stated in Ext. W1 were collected from the calendar in which he had noted down the dates on which he had worked in the Bank.

7. To controvert the above evidence of the workman MW1 has given evidence for the management. This witness has deposed that the records called for by the workman are not now in the custody of management and some of them were destroyed. MW1 has proved Ext. M1 copy of guidelines regarding destruction of documents. It is interesting to note that the concerned person who had searched the documents

was not examined here without any explanation what so ever. MW1 has admitted that the records called for by the workman do not come within the purview of Ext. M1 and there are no guidelines regarding the period of preservation of such records. This witness has pleaded ignorance to a question from the learned counsel for the workman as to whether the records required by the workman are available.

8. The workman is claiming reinstatement in service contending that his termination is illegal and violative of the provisions of the Act, Sasthri award and Bipartite settlement. It has come out in evidence through the workman that he had worked 587 days for the Bank from May 1985 to April 1989 and completed 249 days of continuous service from 1985 September to 1986 August. According to him he had discharged all the duties of a permanent Peon and given details of such duties. In support of this claim the workman has proved Ext. W1 statement wherein the details of the number of days worked by him are stated. He has deposed that such details are stated in Ext. W1 from a calendar wherein he had noted down the dates while he had worked in the Bank. In order to establish the above statement of the workman he had sought production of relevant registers, vouchers etc. which the management Bank is bound to main. But the management has not produced any such documents on the plea that those documents are pretty old. To substantiate this contention the management has examined MW1 and proved Ext. M1, which is a copy of guidelines issued by the management regarding preservation of Bank records. According to MW1 important records such as loan ledger are maintained for eight years and the records which are less important are kept for five years. As stated above the management has not examined the concerned person who had searched the documents called for by the workman as deposed by MW1 and there is no explanation also for the non examination of such a person. Further even according to MW1 the records called for by the workman do not come within the purview of Ext. M1 and there are no guidelines regarding the period of preservation of such records. It is also interesting to note that MW1 has pleaded ignorance to a question from the learned counsel for the workman during cross examination as to whether the records called for by the workman are available without definitely stating that those records are not available or destroyed. In these circumstances it can be reasonably concluded that the management has not produced the records called for by the workman purposely because if produced those would prove against the case of management. Even the management has no case that the workman is in possession of any records and the management who is the custodian of the relevant records failed to produce the same to substantiate the case of management and thereby enabling this court to reject the claim of the workman regarding the total number of days worked by him. In the absence of such records and in the light of the above circumstances the only reasonable conclusion which can be arrived at is that the workman had worked more than 240 days with in a period of 12 months as stated in Ext. W1. Therefore I accept the evidence of workman supported by Ext. W1 and the other circumstances stated above and hold that he had worked in the

management Bank more than 240 days during a period of 12 months.

9. The management has raised a contention that the workman in this case has worked only as a casual employee and he has not discharged the duties of a permanent employee and he had never been a temporary employee in the Bank. The definite case of the workman is that he had worked as a temporary employee and discharged all the duties of a permanent Peon in a permanent vacancy. But the management has not produced any documents to prove it otherwise. Further as per clause 508 of Sasthri Award and para 20.7 of first Bipartite settlement there is no casual employee. In this state of affairs this contention of management is devoid of merit. It is thus clear that the workman was engaged as a temporary employee in a permanent vacancy and discharged all the duties of a Peon as pleaded by him.

10. I shall now pass on to the question of termination and the relief prayed for. As held above the workman was employed as a temporary employee. According to the learned counsel for the workman the management has violated the provisions in the Sasthri Award concerning temporary employee and also violated relevant provisions such as Sec. 25-F and H of the Act while terminating the services of the workman. The workman was not given appointment letter. Admittedly the management has not maintained register stating all the details of the workman as provided in clause 493 of the Sasthri Award. The period of appointment and salary of the workman were also not recorded and he was not given letter with those details as contemplated in clause 493 of the said award. No service book was also maintained as per clause 516. Further as enumerated in clause 312 the attendance of the workman should be recorded in the Muster Roll but there is nothing to show that the management has done so. The management has thus violated the relevant provisions of the Sasthri Award while utilising the service of the workman as a temporary employee. Since no records were maintained as stated above though mandatory, adverse inference is necessarily to be drawn in this case. In the case of temporary employee while terminating his services 14 days notice should be given as per sub-clause (4) of clause 522 and as per sub-clause (5) he should have been given discharge certificate signed by the manager. As per clause 524 sub-clause (1) if the appointment is for unlimited period one month's notice should be given. In the present case admittedly the management has not complied the above clauses while terminating the service of the workman. The workman has also not given notice of retrenchment nor was he afforded pay in lieu of notice. No retrenchment compensation was also paid. Thus the management has not complied the conditions stipulated in Sec. 25-F of the Act though he is having more than four years service. It is also noticeable that the management has absorbed in service Sri. Robert, who is junior to the workman. Further the workman was not called for any test and interview for election of candidates after terminating him. There is thus violation of Sec. 25-H of the Act also. In view of what is stated above the termination of the workman from the service of the management is illegal and ab-initio void.

11. Now remains the question of relief. The workman has placed reliance on Ext. W5-series circulars in support of his contention that he is eligible to be regularised in service even without test and interview since he had completed 240 days of work within a period of 12 months. Ext. W5-series circulars are issued by the management codifying the rights and entitlement for regularisation in the case of temporary employees. The circular dated 12-3-1991 [Ext. W5 (4)] deals with absorption of temporary employees and relevant clauses read thus;

"3. EMPLOYEES WHO HAVE PUT IN 240 DAYS TEMPORARY SERVICE : 3.1 : Temporary employees who have put in 240 days of temporary service in any continuous period of 12 months after 1-1-82 upto 31-12-90 will be considered for absorption in the immediate available vacancies without any test and interview."

"4. EMPLOYEES WHO HAVE WORKED FOR 180 DAYS FROM 1-1-87 TO 24-12-90 : Temporary employees who have worked for 180 days during the period from 1-1-87 to 24-12-90 and are registered with the Employment Exchange but have not been sponsored will be called to appear in the immediate sub-staff recruitment test as and when held."

As held by me above the workman has completed 240 days of service as a temporary employee within a period of 12 months from 1985 September to 1986 August. There is no dispute that he has registered his name in the Employment Exchange. Therefore as per clause 3.1 quoted above he is eligible to be considered for absorption without any test and interview. Even assuming that the workman has not completed 240 days service he would come within the eligible category as per clause (4) quoted above to be called for test and interview in the immediate sub-staff recruitment as and when held since he has completed 180 days of service which is not disputed also. But the management has not invited him so far test though the management has not invited him so far for test though the management has conducted test and interview for selection of sub staff subsequent to the termination of the service of the workman. The action of management is therefore highly illegal and unjust.

12. In view of what is stated above, I hold that the workman in this case had worked more than 240 days within a period of 12 months in the service of the Bank and the management while terminating the services of the workman has violated Sec. 25-F of the Act as well as clauses 522 to 524 of the Sasthri Award. Further the management has also violated section 25-H of the Act. Therefore he is entitled to be reinstated in service with backwages. I further hold that in the light of clause 3.1 of Ext. W5(4) the management should take appropriate steps for absorption of the workman in regular service without test and interview.

An award is passed in the above terms.

C. N. SASIDHARAN, Industrial Tribunal

APPENDIX

Witness examined on the side of the Workman

WW1. Sri. K. V. Sudhakaran.

Witness examined on the side of the Management

MW1. Sri. C. Madhusoodhanan.

Documents marked on the side of the Workman

Ext. W1. Copy of statement addressed to Asst. Labour Commissioner (Central) from the workman dated 30-3-92.

Ext. W2. Copy of the Minutes of discussions held on 27-2-1992 in the presence of Asst. Labour Commissioner (Central) between the management and their workmen.

Ext. W3. Photostat copy of letter dated 2-12-92 issued to the management and the workman declining reference of this dispute.

Ext. W4. Copy of failure of conciliation report dated 27-5-92.

Ext. W5-series (5 nos.) Copies of circulars issued by the Regional office and Central office of the management bank.

Document marked on the side of the Management.

Ext. M1. Photostat copy of pages 50 and 51 of guidelines issued by the management bank.

नई दिल्ली, 8 जुलाई, 1999

क्र.प्र. 2169.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार दीर्घकालीन राजस्थान लिमिटेड के प्रबंधकों के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पक्षों को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-1999 को प्राप्त हुआ था।

[सं. एल-12012/245/97-आई.प्र. (बी-1)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2169.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of The Bank of Rajasthan Ltd. and their workman, which was received by the Central Government on 7-7-1999.

[No. L-12012/245/97-IR(B-I)]
SANATAN, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,

जयपुर

केस नं. : सी.आई.टी./बी-33/98

विज्ञप्ति संख्या : एल-12012/245/97-आई.आर. (बी-I)

श्री जनरल सैक्रेटरी,

अखिल भारतीय बैंक आफ राजस्थान कर्मचारी संघ

59, पटेल कालोनी, सरदार पटेल मार्ग,

सी-स्कीम, जयपुर-302001

बनाम

श्री जनरल मैनेजर, (पर्सनल),

श्री बैंक आफ राजस्थान लिमिटेड,

सी-3, सरकार पटेल मार्ग, सी-स्कीम, जयपुर-302001

उपस्थित : प्रार्थी की ओर से — कोई नहीं

अप्रार्थी की ओर से — श्री आलोक

फतेहपुरिया, एडवोकेट

पंचाट की तारीख : 25-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद इस अधिकरण की न्याय निर्णयन हेतु निर्देशित किया गया है :

"Whether the action of the management of the Bank of Rajasthan Limited, Jaipur is justified in posting and transferring as Computer Operator to Shri Rajendra Maheswari, Clerk-cum-Cashier from Jawahar Nagar Branch, Jaipur to Abu Road Industrial Area Distt. Sirohi when there are clear vacancies at Jaipur of Computer Operator ? If not what relief the workman is entitled to?"

पक्षकारों को नोटिस जारी किए गए, जनरल सैक्रेटरी, अखिल भारतीय बैंक आफ राजस्थान लिमिटेड को निर्देशन आदेश की प्राप्ति के 15 दिवस के अन्दर स्टेटमेंट आफ क्लेम प्रस्तुत करना था, निर्देशन आदेश दिनांक 8-9-98 को प्राप्त हुआ था। इस उक्त प्रार्थी के अन्दर स्टेटमेंट आफ क्लेम प्रस्तुत नहीं किया गया, इसके अतिरिक्त जनरल सैक्रेटरी को रजिस्टर्ड नोटिस स्टेटमेंट आफ क्लेम तारीख 25-6-99 को प्रस्तुत किए जाने हेतु निर्देशित किया गया था। परन्तु जनरल सैक्रेटरी न तो स्वयं उपस्थित हुए न कोई क्लेम प्रस्तुत किया गया, उक्त परिस्थितियों में ऐसा प्रकट होता है कि जनरल सैक्रेटरी को क्लेम फाइल करने में कोई रुचि नहीं है व ऐसा अनुमान लगाया जाता है कि पक्षकारों के बीच विवाद नहीं रहा है, ऐसी दशा में विवाद रहित पंचाट परित किया जाता है, पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 की धारा 17(1) के अंतर्गत प्रकाशनार्थ प्रेषित की जाए।

ह./-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2170 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-12012/274/95-आई.आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

'S.O. 2170.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 7-7-1999.

[No. L-12012/274/95-IR(B-II)]

SANATAN, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,

जयपुर

दिनांक 11-6-99

केस नं. सी.आई.टी. 5/97

विज्ञप्ति संख्या—एल-12012/274/95 दिनांक 31-12-96

श्री श्री प्रबन्धक,

सेन्ट्रल बैंक ऑफ इंडिया,

आनन्द भवन, एस.सी. रोड,

जयपुर

बनाम

अध्यक्ष,

आल बैंक सफाई कर्मचारी संघ, राजस्थान

द्वारा सेन्ट्रल बैंक ऑफ इंडिया,

एम.आई.रोड, जयपुर।

उपस्थित— क्षेत्रीय प्रबन्धक, सेन्ट्रल बैंक

ऑफ इंडिया की ओर से —महेन्द्र सिंह

अध्यक्ष,

आल बैंक सफाई कर्मचारी संघ,

राजस्थान की ओर से —अध्यक्ष एवं श्रमिक

पंचाट की तारीख —11-6-99

पंचाट

केन्द्रीय सरकार की उक्त विज्ञप्ति के द्वारा निम्न विवाद तय किए जाने हेतु निर्देशित किया गया

"Whether the action of the management of Central Bank of India, Jaipur is not regularising the services of the workman Shri Bhanwarlal, daily rated sweeper, who is employed on permanent vacant post at branch Manjhi (Raj.) of Central Bank of India w.e.f. 28-10-89 continuously and non payment of wages as per managements circular No. Co./91-92/91 dated 14-5-91 is legal and justified? If not, to what relief the workman is entitled and from what date?"

पक्षकारों को नोटिस जारी किए गए। दिनांक 10-2-97 को क्षेत्रीय प्रबन्धक, सेंट्रल बैंक ऑफ इंडिया की ओर से दिनांक 10-2-97 को एक प्रार्थना पत्र प्रस्तुत किया गया कि पक्षकारों के बीच विवाद का समझौता हो गया है व तय किए जाने हेतु कोई विवाद नहीं रहा है। प्रार्थना पत्र के साथ मेमोरेण्डम ऑफ सेटलमेंट को अन्तर्गत औद्योगिक विवाद अधिनियम (नियम-58) की कोटो प्रति प्रस्तुत की गई। जिसे सत्यापित किये जाने हेतु कई अवसर पक्षकारों को दिये गये। समझौता ज्ञापन श्री आर. के. बक्शी, सेंट्रल बैंक ऑफ इंडिया एवं श्रमिक भवरलाल व अध्यक्ष, ग्राल बैंक सफाई कर्मचारी संघ, राजस्थान के बीच हुआ बताया जाता है। श्री आर. के. बक्शी उपस्थित नहीं है। क्षेत्रीय प्रबंधक सेंट्रल बैंक ऑफ इंडिया की ओर से समझौता ज्ञापन को सत्यापित किये जाने हेतु श्री महेन्द्र सिंह को अधिकृत नहीं किया गया है अतः इन परिस्थितियों में समझौता ज्ञापन का सत्यापन संभव नहीं है। अध्यक्ष, ग्राल बैंक सफाई कर्मचारी संघ ने प्रार्थना पत्र प्रस्तुत किया कि चूंकि पक्षकारों के बीच समझौता हो गया है इसलिए कोई विवाद नहीं रहा है। आगे कोई कार्यवाही न की जाये।

चूंकि पक्षकारों के बीच समझौता हो गया है एवं विवाद तय किये जाने हेतु कोई बिन्दु नहीं है अतः विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जावे।

ह./-

पीडासीत अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2171:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एवं सिंध बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-12012/276/95-आई.आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O 2171.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of

the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank and their workman, which was received by the Central Government on 07-07-1999.

[No. L-12012/276/95-IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR

Case No. C.I.T. 3/97

Central Govt. Notification No. L-12012/276/95-IR(B-2) dated 7-1-97.

Satish Chand S/o Shri Gopal Dass C/o Gopal Hair Dresser, Nai Mandi, Bharatpur

Vs.

Zonal Manager, Punjab & Sind Bank, C-29, Govind Marg, Adarsh Nagar, Barf Khana, Jaipur.

PRESENT :

None for the parties.

Date of Award—11-6-99

AWARD

The Central Govt. vide notification referred above has referred the following dispute for adjudication :

"Whether the action of the management of Punjab & Sind Bank is justified in terminating the services of Shri Satish Chand S/o Shri Gopal Das w.e.f. 10-6-97? If not to what relief the said workman entitled?"

Registered notices were sent to both the parties for intimation of the date of hearing. The applicant was asked to submit the statement of claim. Notices have been served upon both the parties. However, none of the party is present. The applicant workman has sent an application that Zonal Office Punjab & Sind Bank, Jaipur has given him permanent employment and therefore there does not remain any dispute between him and the above Bank.

As per the application of workman there does not remain any dispute between him and the opposite party for adjudication. Accordingly no dispute is award is passed, the copy of the award may be sent to the Central Govt. for publication U/s-17(1) of the Industrial Disputes Act 1947.

Sd/- (illegible)

Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2172:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर 1 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-12012/296/97-आई.आर. (बी-I)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O. 2172.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 07-07-1999.

[No. L-12012/296/97-IR(B-I)]
SANATAN, Desk Officer

प्रमुख

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय
जयपुर 1

केस नं. : सी.आई.टी./बी-34/98

विवृति संख्या : एल-12012/296/97-आई.आर. (बी-1)

बी जनरल सेक्रेटरी, स्टेट बैंक आफ इंदौर कर्मचारी संघ,
जरिए श्री बी.डी. बंसल, आईस. प्रेसिडेंट,
एन. ओ. बी. इन्ड्यू., जरिए पंजाब नेशनल बैंक,
न्यू ट्रक स्टैंड, जयपुर 302 001

बनाम

बी जनरल मैनेजर (भापरेजान) स्टेट बैंक आफ इंदौर,
हैड ऑफिस, 5, यशवंत निवास रोड,
इंदौर (एम.पी.)-452 001

उपस्थित : प्रार्थी की ओर से : — कोई नहीं
प्रार्थी की ओर से : — श्री.सर्वेश जगन्नाथ,
एडवोकेट

पंचाट तारीख : 25-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विवाद के
जरिए किन्तु विवाद इस अधिकरण को न्याय विषयन
हेतु निर्देशित किया गया है :—

"Whether the action of the management of State Bank of Indore, Head Office, 5, Yeshwant Nivas Road, Indore, (MP) is justified in not posting Shri Sharad Kapoor as Special Assistant and paying him allowances w.e.f. 19-3-1995, the date junior workman Shri R. K. Baberwal was posted and paid the allowances of Special Assistant? If not, to what relief the workman is entitled?"

पक्षकारों को नोटिस जारी किये गये, जनरल
सेक्रेटरी, स्टेट बैंक आफ इंदौर कर्मचारी संघ को निर्देश
प्राप्ति के अन्दर 15 दिवस क्लेम प्रस्तुत करवाया,
निर्देश आदेश दिनांक-8-9-98 को प्राप्त हुआ था, उक्त

प्रवधि में उक्त संघ की ओर से कोई क्लेम प्रस्तुत
नहीं किया गया, इसके अतिरिक्त उक्त संघ के जनरल
सेक्रेटरी को रजिस्टर्ड पत्र के जरिए क्लेम प्रस्तुत करने
हेतु चेतावनी भेजा गया कि दिनांक 25-7-99 को
क्लेम प्रस्तुत करें परन्तु संघ की ओर से न तो कोई उपस्थित
हुआ और न ही कोई क्लेम प्रस्तुत किया गया,
अतः ऐसा प्रकट होता है कि संघ को क्लेम फाइल
करने में कोई रुचि नहीं है, ऐसी दशा में अनुमान
लगाया जाता है कि पक्षकारों के बीच विवाद नहीं
रहा है उक्त परिस्थितियों में विवाद रहित पंचाट
पारित किया जाता है, पंचाट की प्रतिलिपि केन्द्रीय सरकार
को औद्योगिक विवाद अधिनियम, 1947 की धारा
17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

स/-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999.

का.मा. 2173.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसूचना में केन्द्रीय
सरकार यूको बैंक के प्रबंधन के संबंध नियोजकों और उनके
कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में
केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट
को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99
प्राप्त हुआ था।

[सं. एल-12012/339/95-आई.आर. (बी-II)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O. 2173.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 07-07-1999.

[No. L-12012/339/95-IR(B-II)]
SANATAN, Desk Officer

प्रमुख

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर 1

केस नं. सी.आई.टी. 2/97

विवृति संख्या : एल-12012/339/95-आई.आर.

(बी-2) दिनांक 31-12-96

प्रध्यक्ष, यूको बैंक स्टाफ एसोसिएशन,
परकामा, अवन माहोबाग, जयपुर।

वन/स

New Delhi, the 8th July, 1999

असिस्टेंट जनरल मैनेजर,

यूको बैंक, ए-30, शास्त्री नगर, जयपुर।

उपस्थित—स्टाफ एसोसिएशन की ओर से—कोई नहीं

विपक्षी की ओर से

—श्री ओ. पी. शर्मा

एडवोकेट

पंचाट की तारीख — 11-6-99

पंचाट

केन्द्रीय सरकार की उक्त विज्ञप्ति द्वारा निम्न विवाद तय किये जाने हेतु निर्देशित किया गया :—

"Whether the action of the Assistant General Manager, UCO Bank, Jaipur in stopping chain officiating vide their letter No. JZO C/PMG/93/04 dt. 19-7-93 is legal justified and proper. If not, what relief concerned workman is entitled to."

दिनांक 25-3-97 को आवेश दिया गया कि श्रमिक अपना क्लेम आगामी तारीख को पेश करें। पुनः दिनांक 24-7-97 को क्लेम पेश करने का आवेश किया गया। दिनांक 23-9-97 को श्रमिक यूनियन को पुनः नोटिस जारी किये जाने का आवेश दिया गया कि दिनांक 9-12-97 अथवा इससे पूर्व क्लेम पेश करे। दिनांक 9-12-97 को पुनः अन्तिम अवसर क्लेम पेश करने का धिया गया 25-5-99 को पुनः अध्यक्ष यूको बैंक स्टाफ एसोसिएशन को नोटिस जारी किया गया कि वे दिनांक 11-6-99 को क्लेम पेश करें। बावजूब सामिल रजिस्टर्ड नोटिस के न तो अध्यक्ष, यूको बैंक स्टाफ एसोसिएशन उपस्थित आये न ही कोई क्लेम प्रस्तुत किया गया, जिससे प्रकट होता है कि उक्त एसोसिएशन की क्लेम पेश करने में कोई रुचि नहीं है। चूंकि एसोसिएशन के द्वारा कोई क्लेम प्रस्तुत नहीं किया गया है अतः विवाद रहित पंचाट पारित किया जाता है। पंचाट की एक प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह./-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.प्र. 2174:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार स्टेट बैंक आफ बोकानेर एण्ड जयपुर के प्रबंधन के संबंध मियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-1999 को प्राप्त हुआ था।

[सं. एल-12012/508/98-आई.आर. (बी-1)]

सगान, डेस्क अधिकारी

S. O. 2174.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 07-07-1999.

[No. L-12012/508/98-IR(B-I)]
SANATAN, Desk Officer

प्रमुख

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर

केस नं. : सीजीआईटी/जे/14/99

विज्ञप्ति संख्या : एल-12012/508/98-आई.आर.

(बी-1)

अध्यक्ष, आल बैंक सफाई कर्मचारी संघ, राजस्थान
सेंट्रल बैंक आफ इंडिया, आकाशवाणी के पास,
एम.आई. रोड, जयपुर

बनाम

जनरल मैनेजर (पर्सनल) स्टेट बैंक आफ बोकानेर एण्ड
जयपुर

प्रधान कार्यालय : नित्य मार्ग, जयपुर

उपस्थित :—प्रार्थी की ओर से —कोई नहीं

अप्रार्थी की ओर से —कोई नहीं

पंचाट तारीख : 1-7-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए
निम्न विवाद हम अधिकरण को स्थाय निर्णयन हेतु निर्देशित
किया गया है :—

"Whether the action of the Management not giving appointment on full time scale wages to Smt. Sushila Devi is justified, whereas her Junior employees are already appointed on full time scale wages. If not, what relief to Smt. Sushila Devi is entitled for?"

निर्देश आवेश दिनांक 26-3-99 को प्राप्त हुआ था निर्देश आवेश के अन्तर 15 दिवस में अध्यक्ष, आल बैंक सफाई कर्मचारी संघ की ओर से स्टेटमेंट आफ क्लेम प्रस्तुत किया जाना था, परन्तु कोई क्लेम प्रस्तुत नहीं किया गया, अध्यक्ष आल बैंक सफाई कर्मचारी संघ जरिए सेंट्रल बैंक आफ इंडिया को रजिस्टर्ड नोटिस भेजा गया कि वे दिनांक 1-7-99 को क्लेम प्रस्तुत करें बावजूब सामिल रजिस्टर्ड नोटिस के न तो वे उपस्थित आये न ही क्लेम प्रस्तुत किया गया जिससे ऐसा प्रकट होता है कि उसे क्लेम प्रस्तुत करने में कोई रुचि नहीं है एवं ऐसा अनुमान लगाया जा सकता है कि पदाधारों के बीच विवाद नहीं रहा है। उक्त

परिस्थितियों विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह. /-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2175:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल.-17013/8/98-आई.आर. (बी.-II)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O. 2175.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of L. I. C. of India and their workman, which was received by the Central Government on 07-07-1999.

[No. L-17013/8/98-IR(B-II)]
SANATAN, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

केस नं. : सीजीआईटी/जे/13/99

विज्ञप्ति संख्या : एल-17013/8/98-आई.आर.(बी-II)
श्रीमती गुलाबी देवी, जरिए श्री ऋषभ चन्द,
80, बजरंग विहार, गोपालपुरा रेलवे फाटक के पास,
जयपुर।

बनाम

सीनियर डिबीजनल मैनेजर, एल. आई. सी. आफ इंडिया,
जीवन प्रकाश, भवानी सिंह रोड, जयपुर

उपस्थित : प्रार्थी की ओर से — कोई नहीं

अप्रार्थी की ओर से — श्री तेज प्रकाश शर्मा,
पंचाट तारीख एडवोकेट

1-7-99

पंचाट

केन्द्रीय सरकार के आदेश के द्वारा उक्त विज्ञप्ति के जरिए निम्न विवाद इस अधिकरण को न्याय निर्णयन हेतु निर्देशित किया गया है :—

“Whether the action of Sr. Divisional Manager, LIC of India, Jaipur in not paying part-time wages as per NIT, Bombay award dated 1-1-82 to the workman Smt. Gulabi Devi is justified? If not, what relief the workwoman is entitled to and from which date?”

निर्देश आदेश दिनांक 12-6-99 को प्राप्त हुआ निर्देश आदेश के अनुसार श्रमिक को 15 अन्दर दिवस स्टेटमेंट आफ क्लेम प्रस्तुत करना था उक्त अवधि के अन्दर कोई क्लेम प्रस्तुत नहीं किया गया श्रमिक गुलाबी देवी को जरिए रजिस्टर्ड नोटिस भेजा गया कि वह दिनांक 1-7-99 को स्टेटमेंट आफ क्लेम प्रस्तुत करे, बावजूद तामील रजिस्टर्ड नोटिस के न तो वह उपस्थित आई न क्लेम प्रस्तुत किया। जिससे ऐसा प्रकट होता है कि उसे क्लेम प्रस्तुत करने में कोई रुचि नहीं है एवं ऐसा अनुमान लगाया जाता है कि पक्षकारों के बीच विवाद नहीं रहा है। ऐसी दशा में विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की धारा 17 (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह. /-

पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का. आ. 2176:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सर्वेन रेलवे, पालघाट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण तमिलनाडु, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-07-1999 को प्राप्त हुआ था।

[सं. एल-41012/226/94-आई.आर. (बी-I)]
सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O. 2176.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Tamil Nadu (Chennai) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Ry. Palghat and their workman, which was received by the Central Government on 7th July, 1999.

[No. L-41012/226/94-IR(B-I)]
SANATAN, Desk Officer.

ANNEXURE
BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, CHENNAI

Friday, the 16th day of April, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial
Tribunal.

Industrial Dispute No. 36 of 1996

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I.D. Act, 1947 between the Workman and the Management of Southern Railway, Palghat).

BETWEEN

Shri A. Ayyavoo,
C/o, The General Secretary,
D.R.C.L.U.,
Etlapally North,
Cochin-24.

AND

The Senior D.P.O.,
Southern Railway,
Palghat-678 001.

REFERENCE :

Order No. L-41012/226/94-IR(B-1), Ministry of Labour dated 26-3-96, Government of India, New Delhi.

This dispute coming on for final hearing on Friday, the 16th day of October, 1998, upon perusing the reference, claim counter statements and all other material papers on record, upon hearing the arguments of Thiru C. P. Menon, Authorised Representative appearing for the petitioner and of Thiru C.S. Venkata Subramanian & G. Balasubramanian, Advocates appearing for the respondent, management, and this dispute having stood over till this day for consideration, this Tribunal made the following :—

AWARD

This reference has been made for adjudication of the following issue :

“Whether the action of the management of Southern Railway, Palghat, in terminating the services of Sh. A. Ayyavoo an ex-employee under P.W. Inspector[S. Rly. Salem South w.e.f. 20-9-1982 is just, proper, and legal? If not, to what relief is the workman entitled to?”

2. The main averments found in the claim statement filed by the petitioner are as follows.—The petitioner's father died during the course of pendency of the above dispute and the children of the deceased have been brought into as a party for receiving the benefits of surviving rights left behind by the deceased in the present dispute. The petitioner's father was initially engaged as a casual labour in the Openline under PWJ (South) Salem JN. On 21-6-77 and he was continuously engaged thereafter against LTI Card No. 771:631. By virtue of his continuous engagement as casual labour in the open line he has acquired temporary status by operation of law

in the light of the settled position of law. However, he was orally terminated from service on 20-9-82 and was rendered jobless from 21-9-82. The termination was not a simplicitor one but was made out without the recourse of any law or procedure laid down either by the Courts or by the Legislature. In the result, he stood disengaged w.e.f. 20-9-82 without following the procedure enshrined in the I.D. Act, viz., 25(F) and host of other sections and also in violations of various provisions contained in the IREM. Being a casual labour, he also moved the Labour court, Kozhikode by a Claim petition 9/90 seeking for CPC scale of pay as he was deemed to have acquired temporary status. However, during the pendency of the aforesaid claim petition he was granted the arrears of CPC scale establishing the fact that he was a temporary status casual labour having the rights and privileges of temporary Railway Servant as defined under Para 2302 of IREM. It was after the outcome of the claim petition, the deceased moved the Government seeking reference of industrial dispute which is under consideration, his termination being a temporary status casual labour is highly illegal, arbitrary, mala fide and cannot sustain in the eye of law at any stretch of interpretation. The payment of CPC scale soon after the filing of Claim petition goes to show that the opposite party admits the status of the petitioner's father as temporary status casual labour it is obligatory and incumbent upon the opposite party to observe the statutory safeguards before termination of his services. During the pendency of the dispute, the petitioner's father passed away and the material relief of reinstatement cannot be granted as it is personal to him. In the case of reinstatement, has the petitioner's father was alive, he would have been absorbed a decade back and regularised as a permanent railway servant. Though the relief of reinstatement is not possible the consequential benefits as enumerated are liable to be granted to the legal heirs and dependants of the deceased. (a) life time wage arrears (b) life time leave salary (c) family pension to the minor children of the deceased in the absence of wife (d) arrears of family pension (e) D.C.R.G. on his death (f) compassionate appointment to the elder son as the family is in indigent situation on the death of the breadwinner. The petitioner prays to pass an award that the legal heirs of the deceased workman should be granted consequential benefits taking into the fact that the petitioner had been reinstated and died thereafter.

2. The main averments contained in the counter statement of the respondent are as follows.—Claim statement of the petitioner for reinstatement in service with backwages is baseless and untenable and his contention that he should have been given 14 days notice or notice pay under para 2302(1) of Indian Railway Establishment Manual and one month notice or notice pay under Chapter VA and VB of the Industrial Disputes Act, before termination of his service, is misleading. In Railways, casual labourers are engaged for execution of certain works. Para 2001(i) of Indian Railway Establishment Manual (2nd Edition 1968) defines casual labour as labour whose employment is intermittent, sporadic or extends over short periods or continued

from one work to another. Labour of this kind is normally recruited from the nearest available source. They are not ordinarily liable to transfer. The conditions applicable to permanent and temporary staff do not apply to casual labour. In Railway there are two sets of casual labourers. One open line casual labour and another project casual labourer. Open line casual labourers are those casual labourers who are primarily engaged to supplement the regular staff in work of seasonal or sporadic nature which arises in day-to-day working of the Railway system. The Project casual labourers are those casual labourers who are engaged for execution of Railway Projects such as new lines, doubling, conversion, construction of buildings, track renewals, Route Relay Interlocking, Railway Electrification, setting up of new lines etc. Service conditions of open line casual labourers and project casual labourers are not particularly similar and there is some difference. In the claim statement, first it is alleged that he was working under Permanent Way Inspector, South, Southern Railway, Salem Junction from 21-6-77 onwards, but in the second page, it is alleged that his date of employment was 21-12-68. The statements are contradictory and is liable to be rejected. It is medically unfit by the Assistant Divisional Medical Officer, Southern Railway, Erode vide Certificate No. 016804 dt. 21-9-82. Accordingly he could not be employed further from 21-9-82. Subsequently, on verification of his service details, it was found that on 3-8-82 he had completed 120 days of continuous service and thus became eligible for grant of temporary status and CPC scale of pay from 3-8-82 to 20-9-82. When an office order No. JIP. 407/IX/SA dated 25-9-83 was issued granting temporary status and CPC scale of pay to casual labourers who had completed 120 days of continuous service, the applicant also was granted temporary status and CPC scale of pay from 3-8-82 to 20-9-82 by the same order. In the claim petition No. CPC 9/90 filed before the Central Government Labour Court, Kanchi for CPC arrears he claimed a sum of Rs. 10630 towards the CPC arrears. The actual amount due to him towards CPC arrears was worked out and a sum of Rs. 307 was paid to him during the pendency of the claim petition and thus the claim petition became infructuous. The applicant was discharged from service owing to his medical unfitness and not for any other reason. As per the proviso to Para 2302(1) of the Indian Railway Establishment Manual (1968 edition) he was not entitled to any notice of termination of his service as his discharge from service was due to his medical unfitness. Sub-clause (c) Sec. 2(oo) of the I.D. Act, 1947 specifically excludes from the ambit of the term "retrenchment" termination of service of the workman on the ground of continued ill health. The continued ill health includes any physical defect in incapacitating a workman for further work for indefinite period. The applicant had become medically unfit to perform the duty for which he was engaged and therefore, the termination of his services does not fall within the definition of the terms "retrench-

ment". The applicant was not entitled for any notice or notice pay or for the retrenchment compensation. Also in cases of such termination of service on the ground of medical unfitness, the question of violation of Sec. 25H of the Act does not arise if his juniors are continuous in service. The respondent prays to dismiss the claim of the petitioner.

3. In the additional written statement filed by the respondent it is stated as follows :

The claim of the petitioners for life time wage arrears, life time leave salary, family pension to the minor children of the deceased in the absence of wife, arrears of family pension, Death-cum-Retirement Gratuity on his death, compassionate appointment to the elder son of the deceased, as a result of the death of their father during pendency of Industrial dispute are baseless and devoid of merits. The workman Shri A. Ayyavoo was engaged in Railways as casual labour continuously only with effect from 5-4-82, as Man Mazdoor. He was sent for medical examination to ascertain his medical fitness for appointment as Man Mazdoor. He was adjudged as medically unfit by the Assistant Divisional Medical Officer, by the Divisional Medical Officer, Southern Railway, Erode vide Certificate dt. 21-9-82. Therefore, he could not be employed after 21-9-82. He was discharged from service as medically unfit. As per the proviso to para 2302(1) of the Indian Railway Establishment Manual (1968 Edition) the Petitioner's father was not entitled to any notice of termination of his service, as his discharge from service was only due to his medical unfitness. Further Sub-clause (c) of Sec. (oo) of the I.D. Act, specially excludes from the ambit of the term "retrenchment", the termination of service of the workman on the ground of continued ill health. The continued ill health includes any physical defect in incapacitating a workman for further work for indefinite period. The petitioner's father had become medically unfit to perform the duty for which he was engaged, and therefore, the termination of his service does not fall within the definition of the term "retrenchment". The petitioner's father was not entitled for any notice or notice pay or for the retrenchment compensation. Also in such cases of termination of service on the ground of medical unfitness, the question of violation of Sec. 25H of the Act does not arise if his junior are continuing in service. It is denied that he was disengaged with effect from 20-9-82 without following the procedures enshrined in the I.D. Act, viz. 25(F) and last of other sections and also in violation of various provisions contained in the Indian Railway Establishment Manual. The grant of temporary Status to casual labour will not entitle him for any notice of termination from service, because of his discharge from service due to his medical unfitness. As the workman was not entitled for reinstatement into service as his discharge from service was only due to his medical unfitness and not for any other reason the question of payment of life time wage arrears and other benefit does not arise in the case of the petitioners. As per Indian Railway Establishment Manual of Railway pension rules, regularisation in service is sine quo non for grant of pensionary benefits, including family pension. In Railways, regular

railway servants, there are temporary status attained substitutes/casual labourers and substitutes/casual labourers without attaining temporary service. The casual labourers and substitutes will become regular railway servants only they are screened and absorbed into regular service through regular screening process by the regular screening committee for Class IV staff. The temporary status attained casual labourers are only casual labourers who have attained that status merely by virtue of 120 days (previously 180 days) of continuous service. The petitioner's father was not screened and absorbed into regular service. As such he was not a regular servant, but only 58. P.O.S. a temporary status attained casual labourer. Death-cum-Retirement Gratuity and family pension is admissible only in the case of regular railway servants, and not in the case of temporary status attained casual labourers. The claim of the petitioners for family pension and Death-cum-Gratuity amount is unsustainable in law. In the case of Union of India and Others Vs. Sukanthi and another arising out of the SLP (Civil) No. 3341/93 and 10951/95 the Hon'ble Supreme Court by order dated 30-7-96, has upheld the contention that those who had not been regularised in service are not entitled for pensionary benefits. With regard to the claim for compassionate appointment to the elder son, the object of the scheme of compassionate appointment to the member of the family of a deceased employee is to enable the family to get over the financial crisis which it faced at the time of a deceased employee is to enable the family to of death of the sole bread winner and to help the family get over the emergency. The scheme is applicable in the case of death of serving employee, and not in the case of a casual labour who was discharged from service due to his medical unfitness and expired after 16 years thereafter while out of service. There was no provision to grant compassionate appointment to the children of casual labour discharged from service due to his unfitness. Therefore, the claim for compassionate appointment after 16 years from the date of discharge from service is unsustainable. The compassionate appointment cannot be claimed as a matter of right. In Umesh Kumar Nagpal Vs. State of Haryana [JT 1994 (3) SC 525] it has been held that compassionate appointment is not an entitlement and cannot be granted after a lapse of reasonable period which may be specified in the rule. Petitioner's father had raised an I.D. in the year 1992 after a lapse of 10 years after the alleged cause of caution arose in the year 1982. The delay itself deprives a person of his remedy available in law. A person who lost remedy by lapse, loses his right as well. Therefore, the claim of the petitioner is liable to be rejected on the ground of limitation and delay. The respondent prays to dismiss the claim of the petitioner.

4. On behalf of the workman Ex. W-1 to W-5 have been marked by consent. On behalf of the respondent Ex. M. 1 has been marked by consent.

5. The point for consideration is : Whether the action of the management of Southern Railway, Palghat, in terminating the services of Th. Ayyavoo w.e.f. 20-9-82 is proper and justified? If not what

relief the legal heirs of the said Ayyavoo are entitled to?

6. The Point.—The petitioner Th. Ayyavoo was employed as a casual labourer in the Open line under PW1 (South) Salem, from 21-6-77. He was continuously engaged thereafter. He acquired temporary status by virtue of his continuous engagement as casual labour. He was terminated from service from 21-9-82, as seen from Ex. W-1, service card of the petitioner. He filed Claim petition No. 9/90 before the Labour Court, Kozhikode, claiming CPC scale of pay. The respondent accepted the temporary status of the workman and he was paid. Even though the petitioner's claim was for a sum of Rs. 196.30 towards CPC arrears the respondent worked out the actual amount due to him and Rs. 307 was paid to the workman during pendency of the claim petition. On an endorsement made by the authorised representative of the petitioner C.P. 9/90 on the file of the Labour Court, Kozhikode was dismissed as not pressed and the said order is Ex. W-2. On 20-6-83, the workman Ayyavoo has sent Ex. W-3 letter claiming reinstatement with backwages. On 8-1-90, the same workman sent Ex. W-4 letter to provide him a suitable alternative employment in the Railways in lieu of his discharge due to medical unfitness.

7. According to the petitioner, he was orally terminated on 20-9-82 without the retrenchment compensation and since he has acquired temporary status, he should have been paid 14 days notice pay in lieu of notice but the respondent did not pay him the notice pay and therefore, the oral termination is invalid in law. The contention of the respondent management is that the workman was not terminated on 20-9-82 but he was medically found unfit on 21-9-82 as per Ex. M. 1 Medical Certificate issued by the Assistant Divisional Medical Officer, Southern Railway, Erode by his Certificate No. 016804 dated 21-9-82. Though the workman in his claim statement has contended that he was orally terminated on 20-8-82, in Ex. W-4 letter dated 8-1-90 sent by the workman himself, he has admitted that he was found medically unfit and discharged from service and he has prayed for alternative employment. In Ex. W-3 letter dt. 20-6-83, he has contended that he has been retrenched without payment of compensation and therefore he is not entitled for reinstatement. In Ex. W-4 letter dt. 8-1-90, he has prayed for alternative employment in view of his medical unfitness for the work of Man Mazdoor. Prayer for alternative employment has been made by the workman about more than 7 years after his discharge on the ground of medical unfitness. The dispute has been raised after a long delay of more than 10 years. In as much as the petitioner was discharged on medical unfitness as per Sec. 2(oo)(c) of the I.D. Act, 1947, the term "retrenchment" excludes the workman discharged for confirmed ill health or medical unfitness. When the workman himself has not entitled for any claim, his legal heirs are also equally not entitled for claims or notional reinstatement and payment of backwages and other attendant benefits like pension etc. The appointment of a family member on compassionate ground will arise only when the workman died while in service. But in this case, the workman died several years later to

his discharge from service on grounds of medical unfitness.

In the result, award passed dismissing the claim of the petitioners. No costs.

Dated, this the 16th day of April, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For Petitioner-workman :

Ex. W-1—True copy of the Service card from 21-12-68 to 20-9-82 issued to the applicant (R. Ayyavoo) by the opposite party.

Ex. W-2—True copy of the Judgement in C. P. No. 9/90 issued by the Labour Court, Kozhikode.

Ex. W-3—True copy of the letter dt. 20-6-83 sent to the Opposite party by the applicant.

Ex. W-4—True copy of the letter dt. 8-1-90 sent to the Opposite party by the applicant.

Ex. W-5—True copy of the Judgement in I.D. No. 140/89 and 202/90 issued by the Industrial Tribunal, Alapuzha.

For Respondent-Management :

Ex. M. 1—Medical certificate of Shri R. Ayyavoo.

नई दिल्ली, 8 जुलाई, 1999

का. आ. 2177.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वेस्टर्न रेलवे, अजमेर के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-1999 को प्राप्त हुआ था।

[सं. एल-41012/59/97-आई. आर. (बी-I)]

सनातन, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S. O. 2177.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Western Railway Ajmer and their workman, which was received by the Central Government on 08-07-1999.

[No. L-41012/59/97-IR(B-I)]

SANATAN, Desk Officer.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,

जयपुर

केस नं. : सी. आई. टी./बी-4/98

विशक्ति संख्या : एल-41012/59/97 आई. आई. बी.)

डिवीजनल सेक्रेटरी,

पश्चिम रेलवे कर्मचारी परिषद,

1623/35, गुलबरी, रेलवे क्रासिंग के पास,

नाका-मदार, अजमेर।

बनाम

डिवीजनल मैनेजर वेस्टर्न

रेलवे, अजमेर।

उपस्थित : प्रार्थी की ओर से ----कोई नहीं।

अप्रार्थी की ओर से ----कोई नहीं।

चाट तारीख : 22-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विशक्ति के जरिए निम्न विवाद इस अधिकरण को न्याय निर्णयन हेतु निवेशित किया गया था—

“Whether the action of the D.R.M. W. Rly., Ajmer in not given the regular post of Chief Typist from 1-1-93 to Shri Nihal Chand Gadiaya is legal and justified? If not what relief the concerned workman is entitled to and from what date?”

उक्त निर्देश दिनांक 25-8-98 को प्राप्त हुआ जिसके अनुसार पश्चिम रेलवे परिषद की ओर से पन्द्रह दिन के अन्दर क्लेम प्रस्तुत करना था। परन्तु क्लेम प्रस्तुत न किया गया। इसके अतिरिक्त दिनांक 2-6-99 को उक्त आदेश की पालना में उक्त परिषद के डिवीजनल सेक्रेटरी को रजिस्टर्ड नोटिस बास्ते फाईल करने क्लेम प्रेषित किया गया, जो उसे प्राप्त हो गया। बावजूद रजिस्टर्ड नोटिस प्राप्त के न तो वह उपस्थित आया और न ही क्लेम प्रस्तुत किया, जिससे ऐसा प्रकट होता है कि उक्त परिषद की क्लेम फाईल करने में कोई रुचि नहीं है। ऐसी परिस्थितियों में विवाद रहित पंचाट पारित किया गया। पंचाट की एक प्रतिलिपि केन्द्रीय सरकार को औद्योगिक

विवाद अधिनियम 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

हं
पीठासीन अधिकारी

नई दिल्ली, 9 जुलाई, 1999

का. आ. 2178.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रेलवे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-1999 को प्राप्त हुआ था।

[सं. एल-41011/45/89-आई.आर. (डीयू)/बी-1]
सनातन, डैस्क अधिकारी

New Delhi, the 9th July, 1999

S.O. 2178.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 8-7-1999.

[No. L-41011/45/89-IR(DU)/B.I.]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Presiding Officer—Shri D. N. Dixit.
CASE NO. CGIT/LC/R/181/90

1. Abhiram Chowhan, S/o
Shri Bansi Chowhan.
2. Rameshwar Prasad, S/o
Ramjit Prasad.
3. Surya Narayan Prasad, S/o
Shivsaran Prasad.
4. Arjun Prasad Singh, S/o
Bansi Jamdar
5. Jagdish Prasad, S/o
Shiva Narayan Prasad.
6. Dashrath Prasad,
S/o Challiter Prasad.
7. Laxmikant Prasad, S/o
Relakhan Prasad
8. Rechand Prasad, S/o
Chetrapal Prasad.
9. Awedhesh Prasad Chowhan
S/o Jadunandan Prasad.
10. Suresh Chowhan, S/o
Chatuni Chowhan.
11. Ramprit Prasad S/o
Teja Prasad.
12. Ra Lishwar Chowhan,
S/o Bansi Chowhan.
13. Raghubir Prasad, S/o
Lakhan Prasad.

14. Satyendra Chowhan, S/o
Nathuni Chowhan.

Versus

1. Union of India through
General Manager, Central Railway,
Bombay VT.
2. The Divisional Railway Manager,
Central Railway, Bhusawal.
3. The Divisional Railway Manager,
Central Railway, Bhopal.
4. The Assistant Engineer,
Central Railways, Khandwa.
5. Permanent Way Inspector,
Central Railway Burhanpur
Distt. Khandwa (MP)

Non-applicants.

AWARD

Delivered on this 18th day of March 1999.

1. The Government of India, Ministry of Labour vide order No. L-41011/45/98-IR(DU)(B-I) dated 22-8-92 has referred the following dispute for adjudication by this tribunal:—

“Whether the termination of Shri Abbira Chowhan and 13 others by the management of Permanent Way Inspector (South) Railway Burhanpur is justified? If not, to what relief the workman is entitled to?”

2. The contention of the workman is that they were working as gangman under the supervision of Permanent Way Inspector (North) Central Railway, Burhanpur, Distt. Khandwa, PW1, North Burhanpur by his order dated 26-1-87, 27-1-87 terminated the services of the workman with effect from 18-2-87. The reason assigned was that the service cards of workman were bogus and forged. Against this allegation no enquiry was made and the workmen were not given an opportunity to explain their case. The PW1 North Burhanpur is not competent to terminate the services of the workman. The workman has acquired temporary status after six months of continuous service. The PW1 North Burhanpur is not competent to terminate the services of Burhanpur cannot terminate the employment of workmen. The workmen wants that their termination order be quashed and they be paid wages and allowances from 18-2-87 till date.

3. The case of the management is that the workman were working under PW1, North Burhanpur as monthly rated casual labour. Every workman was issued a show cause notice to explain their conduct. No workman replied to this notice. After this order of termination was passed against each workman. It is wrong to say that workman has acquired temporary status. The order of termination was signed by Assistant Engineer Khandwa who is the competent Authority. The management wants this case to be dismissed.

4. The order of termination of each workman has been issued on 15-6-87. The services has been terminated from 18-2-87. Thus the services of the workman has been terminated from the back date. Such an order is clearly illegal and irregular.

5. In case of workman Satyendra Chouhan, the evidence of Shri R. N. Singh time keeper Satna has been produced. This witness was cross examined by workman in the court. The witness has stated the services produced by Satyendra Chouhan was not issued by PW1, Satna. Thus the management proved that service card on the basis of which workman Satyendra Chouhan obtained employment was bogus and fabricated. The consequence is that this workman Satyendra Chouhan has rightly been removed from service with effect from 18-2-87.

6. In respect of remaining 13 workmen the management has not produced evidence that the service card produced by them are bogus and fabricated. If the contention of the management is correct that these workmen produced bogus service card, then the temporary proof is with the management. The management has not produced this proof in court. Thus they have withheld the best evidence from the court. The adverse influence is drawn against the management.

7. There is nothing on record to suggest that workmen (except Satyendra Chouhan) got employment with the PWI North Burhanpur on the basis of bogus service card. Thus the termination of workman (except Satyendra Chouhan) from 18-2-87 is illegal and hereby quashed.

8. It has been vehemently argued by the management that workmen be not given salary and allowances from 18-2-87 till they joined the service under this award, as they have not worked for the management. This contention is devoid of merit. The workmen were thrown out of management by the management without any reason or crime. The workmen were all along keen to join their duties and work for the management. It is the management who actively kept the workman away from work for 12 long years. In such a condition, denial of wages and allowances to workmen are not justified. The prayer of management is rejected.

9. The claim of the workman Satyendra Chouhan, S/o Nathin Chouhan is hereby rejected. The claim of other 13 enumerated in the title of this case. Management the management and in favour of the workmen No. 1 to 13 enumerated in the title of this case. Management is directed to take these 13 workmen immediately and pay wages and allowances to them as per rules from 18-2-87 up to date. The payment shall be made to workman within 3 months from the publication of award. If this is not done, the management to pay Rs. 12 per annum interest on the amount. Parties to bear their own cost.

10. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली, 9 जुलाई, 1999

का. आ. 2179.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेस्टन रेलवे, बाम्बे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-1999 को प्राप्त हुआ था।

[स. एल-41012/147/93-आई. आर. (बी.-I)]

मनातन, डेस्क अधिकारी

New Delhi, the 9th July, 1999

S.O. 2179.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of W Rly., Bombay and their workman, which was received by the Central Government on 8-7-1999.

[No. I-41012/147/93-IR(B-I)]

SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.

REFERENCE NO. CGIT-1/14 OF 1995

PARTIES :

Employers in relation to the management of Western Railway, Bombay

AND

Their Workmen

APPEARANCES :

For the Management : None Present.

For the Workman : Shri Saxena Advocate.

State : Maharashtra.

Mumbai, dated the 23rd day of June, 1999

AWARD

The Central Government by its order dated 28-3-95 has referred the following dispute between the management of Western Railway and their Workmen for adjudication by this Tribunal.

"Whether the action of the employer of Western Railway in prematurely retiring Shri Ramdular Singh, Fitter working under the control of Dy. Chief Mechanical Engineer (MOD) Lower Parcel Bombay w.e.f. 27-6-83 is justified? If not, to what relief the workman entitled to?"

2. The workman in his Claim statement contends briefly as follows :

The Workman who was appointed as a Khalasi was promoted to the post of Fitter subsequently. He was charge-sheeted by Memorandum dated 3-5-1979 under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. It was alleged that from 1977 to 3-9-1978, he failed to maintain absolute integrity and devotion to duty and exhibited conduct unbecoming of Railway Servant, in that he is alleged to have demanded and accepted various amounts from different persons as illegal gratification. The workman was not supplied with his pre-recorded statement alongwith copies of documents be asked for. He denied the charges levelled against him. He submitted a letter requesting supply of documents listed in Annexure-II of the charge sheet; but he was not supplied with them. The Disciplinary Authority appointed an Enquiry Officer by a letter dated 1-9-1980. The Enquiry Officer proceeded with the enquiry and completed the same without supplying the documents listed in the charge sheet. The Assistant Personnel Officer, Mr. T. K. Krishnan was also not examined. The Enquiry Officer submitted his findings to the Disciplinary Authority. The Disciplinary Authority dropped the charges on the ground that there is no documentary evidence available to substantiate the charge and that there was no evidence that the marked currency was placed on demand. The charges framed against the employee were not conclusively proved; but the Deputy Chief Mechanical Engineer reviewed the orders passed by the Works Manager, namely the Disciplinary Authority and by order dated 31-3-1983 issued a show cause notice and imposed the punishment of removal from service. The said order was lost by the workman. He requested for a duplicate copy of the order being supplied. Duplicate copy was supplied. The Reviewing Authority had asked the workman to show cause why he should not be removed from service. The workman has replied that his defence assistant was not available. He also prayed for want of time for sending the reply and to supply II documents in Hindi. Instead of granting one months time or supplying Hindi Version, final orders has been passed removing the workman from service. The workman preferred an appeal. It was dismissed. Hence the workman has raised this dispute.

3. The management has filed a written statement denying the allegations in the Claim statement and contending that

the workman was found guilty with the charges framed against him by the Reviewing Authority and after issuing a show cause notice he was dismissed from service. It is also contended that in the appeal preferred by the workman the order was modified to the effect of Compulsory retirement and the reference is therefore, to be answered in the negative. In spite of several adjournments granted to the management, the management was not represented by their Advocate on several dates. On account of several adjournments taken by the management, due to the non-appearance of the Advocate for the management on several hearings a sum of Rs. 250 was awarded as Cost payable by the management to the workman on 19-4-1995. On the same day, notice requiring the appearance of the management either in person or through an Advocate was issued and intimating the management that they would be set ex-parte if the management is not represented before this tribunal either in person or through their Advocate. The Ex-parte notice was served on the management, yet, on the hearing date no one represented the management and the management was therefore, set ex-parte. Arguments of Mr. Saxena, Advocate for the workman was heard, I have also gone through the documents filed by the management, namely the Enquiry proceedings, Orders passed by the Reviewing Authority and the Appellate Authority.

4. The workman has been charged of having committed misconduct under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968. The workman has participated in the enquiry. The workman has denied to the charge framed against him and participated in the enquiry. It was submitted by the management that the Enquiry Officer has given his findings which is marked as Ex-R 1. In his report, the Enquiry Officer has stated that Shri Ram Dular Singh is only a Fitter in the Workshop and he cannot do anything with the selection and on account of this, the facts brought out during the enquiry enhanced the chance of probability of Shri Ram Dular Singh having passed on the money to APOPL; but there is nothing brought out by the Presenting Officer during the enquiry or in the said panchanama recorded by him. The finding of the Enquiry Officer is to the effect that the charge has not been proved. Annexure R-2 is to the effect that the charge having not been sustained the accused stands not guilty. In those circumstances, the charges be dropped. The Disciplinary Authority order that the accused stands not guilty and the charges be dropped was reviewed, by the Deputy Chief Mechanical Engineer (CPL) on 27-6-1983; but the order dropping the charge against the employee has been communicated by the Disciplinary Authority only on 23-10-1983. This order of the Reviewing Authority informed the workman that he has been imposed with the penalty of removal from service has been passed after six months of the order of the Disciplinary Authority. As per the Rule 25 of the Railway Servants (Discipline and Appeal Rules) no order imposing or enhancing any penalty shall be made by the Reviewing Authority unless the Railway servant has been given a reasonable opportunity and no such order shall be passed imposing the penalty after six months. As per Rule 25 with proviso no action under the said rule shall be initiated by an Appellate Authority other than the President of the Reviewing Authority, after more than six months of the date of the order to be reviewed in cases where it is proposed to impose or enhance the penalty or modify the order to the detriment of the Railway servants. In the case on hand the Railway authority Mr. Ahuja has passed the order on 27-6-1983, six months after the passing of the order of the Disciplinary Authority. Therefore on that ground itself it is to be set aside. The learned counsel appearing for the workman would argue that the workman sought Hindi version of the proceedings and that it was not provided to him and that he wanted to have the assistance of one Mr. Kuriakose as his defence attorney and if it is also rejected and therefore, the order of the Reviewing Authority is liable to be set aside. From the records it is seen that the workman has not been provided with the Hindi version of the proceedings and he did not have the assistance of Mr. Kuriakose before the Reviewing Authority. Mr. Ahuja. Therefore on this ground also the said order is to be set aside. The workman preferred an appeal against the order of the Dy. Chief Engineer, namely the Reviewing Authority to the Appellate Authority who has stated that he had gone through the speaking order of the then Reviewing Authority. The Reviewing Authority has not stated any other grounds

as to why he is confirming the order of the then Reviewing Authority. Therefore, the order passed by the Reviewing Authority also suffers infirmity. In that view I am of opinion that the order of Reviewing Authority cannot be sustained. Against the said order, the workman has preferred an appeal to the Additional Chief Mechanical Engineer. The appellate Authority observed in his order that the evidence of the then A.P.O. who was listed as a evidence could not be ordered as the A.P.O. has since retired and that Shri Ram Dular Singh is retiring next year and therefore, the end of justice should be met if the punishment of removal is reduced to compulsory retirement. The Appellate Authority is aware that an important witness has not been examined; but he justifies the same by saying that the same witness could not be examined since he retired. So also, he has considered the fact of the retirement of Ram Dular Singh on the next year as a ground for reducing the punishment of removal from service into one of compulsory retirement. The reasons given by the Appellate Authority for imposing the punishment of compulsory retirement are not satisfactory and 'could not be justified. Therefore, I am of opinion that the action of the employer in pre-maturely retiring Ram Dular Singh is not a justified one. But since it is stated in the order of the Appellate Authority dated 9th September 1983 that the workman was to retire next year namely 1984, the workman cannot be granted relief of reinstatement, since nearly 15 years have passed. In that view I am of opinion that the workman is entitled to an order by which he is deemed to be in service till the date of his retirement as per the records with all benefits.

An Award is passed as follows:-

"The action of employer of Western Railway in prematurely retiring Shri Ram Dular Singh, Fitter under the control of Dy Chief Mechanical Engineer w.e.f. 27-6-1983 is not justified. He shall be deemed to be in service with salary and all benefits till his date of retirement as per the records of the management. The workman is entitled for a cost of Rs. 2500 payable by the management within one month from the date of publication of this award in the Gazette.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 15 जुलाई, 1999

का. आ. 2180.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबन्धसंस्थ के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बैंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-7-99 को प्राप्त हुआ था।

[स. एल-12012/178/93-आई. आर. (बी II)]
सनतान, डेस्क अधिकारी

New Delhi, the 15th July, 1999

SO 2180.—In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 14-7-99.

[No. L-12012/178/93-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 5th July, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.
C. R. No. 61/1993

I PARTY

Sri B. Devadas Achar,
Rep. by the General Secretary,
Syndicate Bank Staff Assn.,
Annoradha Building,
Near Ananda Rao Circle, S. C. Road,
Bangalore-560009.

II PARTY

The Deputy General Manager
Syndicate Bank,
P.B. No. 747,
Mangalore-3

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/178/93-IR (B-II), dated 27-10-1993 for adjudication on the following schedule :

SCHEDULE

"Whether the management of Syndicate Bank is justified in dismissing the services of Sri B. Devadas Achar, w.e.f. 7-1-92? If not, to what relief the workman is entitled to?"

2. The I Party joined the services of the second party as a Clerk in the year 1974. In the year 1991, he was transferred to Belgaum Branch. On the evening of 11-1-91 in his absence the Assistant General Manager and the Deputy General Manager visited the branch and inspected the Post outward section which was entrusted to the first party in addition to his other works from 1-12-1990. After the alleged inspection an order dated 12-1-1991 a charge sheet was issued making allegation that the I Party mis-appropriated the funds of the Bank by writing false accounts aggregating to Rs. 307 between 1-12-1990 to 11-1-1991. In another sense, he has been charged of inflating and manipulating the amount in the post outward register of the Branch. They have subdivided this act on 6 heads showing the aggregate amount received from one period to another period, though so much amount was not utilised towards the postal charges. The workman has been charged of having committed gross misconduct vide clause 19.5(I) of the Bipartite settlement. This came under the heading "Doing acts prejudicial to the interest of the Bank".

3. The first party in his reply dated 27-5-1991 has denied all these allegations and contended that the act of the II party was vindictive, to humiliate him for his legitimate Trade activity this action is initiated.

4. Thereafter a domestic enquiry was conducted by the Assistant Personnel Manager.

5. During the enquiry, two witnesses were examined by the Management and as many as 74 documents were marked as management exhibits. The first party has examined himself in the enquiry. After receiving the written brief by both parties the enquiry was concluded and a finding was given on 10-10-1991 (Ex. M-6). The enquiry officer concluded that the first party was found guilty of committing gross misconduct vide clause No. 19.5(I) of Bipartite settlement.

6. The Disciplinary authority has issued a second show cause notice with regard to the proposed punishment along with enquiry report. The first party gave his explanations on 8-11-1991. The Disciplinary authority after giving a personal hearing imposed the punishment of dismissal from the services of the Bank with immediate effect i.e. 7-1-1992.

An appeal filed by this workman came to be rejected vide Order dated 23-4-1992.

7. The first party while denying the charge has contended in his claim statement that he had no occasion to misappropriate this paltry sum of Rs. 307. The stamps used to be affixed on the basis of the weight of the articles to be posted and even to despatch the letters through the envelope "Postal Service". provisional expenses were shown on the account and in fact he was not in possession of "Postal Service Covers".

8. He has been victimised to his Trade Union activities as he has an Office bearer of the Syndicate Bank Staff Union for 14 years, which represented the grievances of the employees without fear.

9. The second party in their counter statement have contended that on 11-1-1991, as there was complaint; all the Branch records connected to postal expenses was inspected by the Assistant General Manager and serious lapses were found in the postal outward section which was handled by the first party. After keeping the first party under suspension a pre-investigation was conducted and having found prima-facie evidence of misconduct, a charge sheet was issued and the said misconduct was proved by both oral and documentary evidence and therefore they have a right to give this extreme penalty of dismissal.

10. It is further contended that the first party showed excess amount of postage expenditure than that is actual incurred. The other contention is that in an earlier occasions the postal expenditure claimed for a postage made under "Postal Service" envelopes by the earlier clerks does not entitle the first party to go on repeating such acts to have undue pecuniary advantage. They have denied the contention of the first party that due to the non-availability of 20 gms weight there was some mis-calculation of the actual charge of postal stamps.

11. They have further denied of having committing unfair labour practice leading to victimisation to dismissal of this workman.

12. Initially, an issue was framed to give a finding on the validity of the domestic enquiry. After examining the enquiry officer and the workman, this court gave a finding in favour of the management, as it relates to procedure adopted by the enquiry officer. Thereafter, the case is posted to hear on the question of perversity in the findings of enquiry officer, bias of enquiry officer, victimisation and unfair labour practice employed by the second party as alleged by the first party.

13. As it relates to the question of perversity, the learned Advocate for the first party is taken through this court to the evidence of MW-1 and MW-2, as according to the learned Advocate the material evidence not considered by the enquiry officer.

14. As it relates to the allegation of bias it is contended by the first party that the enquiry officer under the strict instructions of the higher ups has proceeded to give a finding with distorted mind.

15. With regard to victimisation and unfair labour practice, the contention of the first party is that his trade union activities for a great length of period and his fearless approach to the management while representing the workman was the reason for the second party to initiate an enquiry on the alleged misuse of Rs. 307 within a limited period from 1-12-1990 to 12-1-1991, though there was no allegation of any misconduct against this workman during his 16 years of service in the Bank.

16. The contention of the management is that the first party has committed a grave misconduct of unbecoming of a Bank employee and since such allegation was proved, the management has every right to pass an order of dismissal as no lesser punishment is attracted to the gross misconduct committed by the workman. It is also contended that this Tribunal having held the fairness of the domestic enquiry in favour of the management should be very slow to interfere with the punishment imposed by the management.

17. Against this submission the learned advocate for the second party has submitted that the second party after taking into consideration the overall picture, that was emanated on the materials placed in the domestic enquiry came to the conclusion that this workman has committed a gross misconduct under clause 19.5(f) of Bipartite settlement, and therefore on proved fact no lesser punishment can be given except the order of dismissal. Therefore it is contended that the first party is not entitled for any relief by this Tribunal.

18. I have carefully gone through the evidence of MW-1 and MW-2 and also the documents marked as exhibits for the management.

19. MW-2 discloses the original entries made in the postal outward register from 1-12-1990. This register is started from 28-2-1990. Writing of these postal outward register and dealing in sending all information by post used to be entrusted to the cashiers temporarily, in addition to their own work. The figures entered in the register upto 3-8-1990 shows the amount incurred for post are 1 rupee and in respect of registered post it varies from Rs. 7 to Rs. 8. It is also the case in respect of all subsequent entries till 29-11-1990.

20. This workman was entrusted with this work from 1-12-1990. The entries from 1-12-1990 till it was seized by the authorities on the evening of 11-11-1991 does not in any way shows a different figures, as it regard to the charges incurred for posting. It is stated in the evidence that the expenses incurred used to be re-imbursed keeping the cash of Rs. 200 to enable the cashier to spend for postal expenses.

21. A consistent case was made, that though no stamps are necessary for the letters which are sent in the covers on which there was a printing "Postal Services", there seems to be some understanding entered between the banks with the postal authorities for purpose of getting re-imbursement for the letters sent in postal covers. It is in the evidence of MW-1 and MW-2, that it is a practice from the beginning that the concerned cashiers used to charge Rs. 1 as postal expenses but the management has not questioned them in this regard.

22. The case made out by this workman is that after attending to his cash work, he used to attend to this work after 4 or 4.30 p.m. The work entrusted to him used to affix the stamps after weighing or used to collect the money for purchasing the stamps to enable him to despatch the letters to the address. Therefore the entries used to be made in the despatch outward register giving Sl. No., name and address, place, amount spent and whether it is registered letter or a telegram. This used to be counter signed by the Manager as could be seen in the register. When this being the real state of affairs, the Management intended to make a case of misappropriating the marginal amounts after showing excess amount of stamps to the postage covers.

23. The enquiry officer has highlighted this aspect of the matter at Page-6 of the report. The management choose to take the serial number as entered in the register and the relevant charge of postage and then pointed out that in many instances though postage was Rs. 7 but it was shown as Rs. 8 in the postal register.

24. This workman has stated in his evidence that "in KRCC branch, Belgaum, postal department was attached to payment cash and there were two to three trays, one near the CA account department and another in cash cabin and yet another in loans department. Further, cash officer was attached with OBC, Discount, IBC, LSC and postal department and as and when the OBC and CDD are booked, the concerned officer used to hand over the checked articles and put in the postal tray during cash hours and remaining outward despatch posts were put in the particular tray in the cash after 4 p.m. or 4.30 p.m.

As soon as the payment cash is completed, after handing over the cash to the main cashier, he used to write the articles in the postal outward register and address over the covers. Afterwards, sometime attender was used to take that articles/covers to affix the stamps. Thereafter, he (the attender) used to hand over the articles to the concerned officer for checking. After that, the concerned attender used to take those covers for despatch.

That, the concerned officer used to check the articles/covers written and entered into the postal outward register.

That, he found a lot of difficulties, as the postal department was attached to cash and he used to complete the cash upto 4 to 4.30 p.m. and only after that, he used to do the postal department work. As the time available to him was very short, particularly during the last week and 1st week, he could not do the postal department work, in a systematic manner.

That, as the 20 gram stone/weight was not available in the branch, he used to just presume the weight of the article and affix stamps accordingly. In the postal tray, besides the items meant for despatch, even the other articles meant for local delivered responded IBA's letters meant for filling etc., were found in that tray.

That, his attention used to be diverted very often by the customers/staff for revenue stamps/postal stamps and once it so happened that the list Rs. 3,000 on 23-12-1990, Registration receipts were not correctly received on account of various constraints.

That, free postal covers were not in his custody and even, he was not writing addresses also on the covers and items despatched in Annexure-I were sent through Bank covers, affixing due postage. That, as the branch was not provided with 20 gram weight, he used to weight the articles approximately and used to affix the stamps and hand over the stamps to the concerned attender for affixing the stamps to the covers.

Regarding the VPI. articles, he used to handover the cash to the attender as per his requirements. Sometime, whenever it was told that the articles was under-stamped, he used to handover the required amount. Moreover he had no time to make a detailed enquiry as he was busy with payment cash and on 11-1-1991, in respect of articles mentioned in the chargesheet Annexure-II from item No. 12 to 20, he has not affixed any stamps to the covers.

That, regarding K.A. Dhakani/Sambhra Medicals, one letter was sent to the proprietor in his proprietor's name and another in his individual name, one by Regd. post and another by Regd. A.D. Further, he used to hand over the cash to the attender, as and when he (attender) informs him that a particular cover was under-stamped. As he could not get sufficient time to handle the postal dept., properly, the articles which were kept in the tray he used to enter in the postal outward register as per the procedure in the branch.

That, all the articles mentioned in Annex-IV were sent by Regd. Post and during the relevant period, as many as 82 to 85 covers were sent by Regd. Post and in the receipt file, less than 50 per cent of the receipts are available in the file. Further, when a permanent attender went on leave, temporary attender once or twice despatched all the articles in in the post box. This was brought to the notice of the Manager.

That, on 2-1-1991 he was on leave and the expenses incurred by him on 1-1-1991 and 2-1-1991 were claimed by him on 3-1-1991. Further he said that he has not affected the alterations. That he was not aware of alterations mentioned in Charge, No. 6. He generally used to write 7 in "7" form and in item No. 11 dated 9-1-1991, originally intended for despatch under regd. post but subsequently charged to ordinary post, as per the direction of the officer and in his own hand, he has changed the total.

That, on 11-1-1991 (Friday), he has completed the cash at about 4.30 p.m. and thereafter, he started entering the postal outward register, as per the procedure and at the end, he has tallied the stamp in stock, keeping the extra stamps to be affixed kept along with the covers and tallied the stamp in stock account. At that moment, the time was 5 p.m. He has kept the covers along with the postal outward register in his drawer and left the branch. On 12-1-1991, as soon as he entered into the office, the Manager called him and told him that he had withdrawn cash duties. He further submitted that the reply to the charge sheet may also be treated as part and parcel of his deposition.

25. At the earlier point of time in his reply to the charge sheet he has stated :

"I hereby deny your allegation of doing acts prejudicial to the interest of the bank vide clause 19.5(j) of the Bipartite Settlement. As to the various observations made in the charge sheet and also the details given in the annexures thereto I would like to submit that reply cannot be given unless an opportunity is given to me to go through the documents and refurbish my memory to state that circumstances under which such alleged claims were made on respective dates.

It is a fact that I was entrusted with cash duties besides the duties of handling postal outward section of the branch during the relevant period. Hardly one hour was available during the lean days and whenever there were heavy transactions hardly any time was available for doing the postal outward duties. In spite of all the difficulties I used to perform both clerical and cashier duties to the best of my ability. After writing the addresses over the covers and the postal outward register, I used to hand over the covers to the attender for affixing the stamps. Postal outward register was being checked by the officer daily. Once the covers are handed over for affixing stamp/checking, I never used to get back these covers. Even though relative documents are not made available to me to make a detailed reply, suffice it to say that I have not falsified/caused to be falsified various records having connection with postal outward section of the branch with a view to misappropriate the funds of the bank. Further I deny having claimed a princely sum of Rs. 307 knowing fully well that the claim preferred were non-genuine which has now resulted in my suspension and further disciplinary action.

I vehemently protest against the vindictive attitude of the Zonal Management in suspending me from the services for the alleged misconduct said to have been committed by me at K.R.C.C.C. Belgaum branch. I have been single doubt for this kind of humiliating treatment for my legitimate trade union activities and I hereby demand that I should be re-instated into the services of the bank with retrospective effect pending enquiry if any. I hope and trust that management will consider my request for re-instatement in the interest of fast play and justice besides dropping the matter in the light of my above reply."

26. If one reads carefully the reply and the evidence of first party there is absolutely no material to come to a conclusion that he has deliberately indulged in committing the misconduct alleged in the articles of charge.

27. The evidence of MW-1, MW-2 and this workman clearly established that there was no proper method and procedure in maintaining the postal outward register and the expenses incurred in this regard. The methodology was quite casual and nobody evinced a serious attention to this work.

28. The allegation of mis-appropriation by this short payment to postal stamps is not established. It may be a fact that the first party shown some negligence in handling this section but it cannot be said that he is indulged in mis-appropriating the amounts of this small magnitude. Therefore the management failed to establish that this workman has committed a gross misconduct under clause 19.5(i).

29. The enquiry officer in such magnitude of evidence both oral and documentary came to the conclusion that this workman is guilty of the offence charged, on the basis of the evidence by adopting the method 'Pick and Choose'. The enquiry officer never said why he is not accepting the shortcomings of this workman when he has been entrusted to look after the cash work and diverted his work after 4 to 4.30 p.m. everyday. The term mis-appropriation is a very serious offence and there should be an element of 'Mens-Real'. In the absence of that if negligent act cannot be called as the act of mis-appropriation.

30. In view of the above discussions I have no hesitation to say that the management are guilty of victimisation and unfair labour practice. When it is said that prior to this incident the person incharge of the postal outward department used to charge Rs. 1 when the letters are despatched through the postal service covers why this workman was signed out for punishment.

31. It was opened for the management to give a warning to this workman before initiation of enquiry as the facts and circumstances revealed that it is not a deliberate act of mis-appropriation of these small sums of money but is only a negligence shown by this workman. It is no doubt to mention that in such circumstances even an attender used to affix the stamps and take the cover to the despatch. While it is tendency to ignore one or two rupees shortage in this postal expenses.

32. Since this tribunal held that the act of the workman does not amount to an act of mis-appropriation. I am not inclined to take reliance to the Judgements of 1995 1 LLJ 1076, between D. Padamanabhadu and Bank of India and another; JT 1998 (9) SC 37 State of Karnataka and others V/s. Nagaraj H; and JT 1999 (1) SC 16 between Apparel Export Promotion Council V/s. A. K. Chopra; and AIR 1997 SC 2249, Sudhir Vishnu Panwalkar V/s. Bank of India.

33. It is disturbing to note that several banking institutions are resort into inflicting disproportionate punishment to its employees when the magnitude of misconduct is quite negligible. It can be understood that if the act is deliberate and the motive is clear a punishment of this magnitude can be imposed. In most of the cases the management are brushing aside completely the good work done by the employees throughout their services till they have been charged of having committed some offence. There shall be a demarcation towards the employees who habitually commit some misconduct or another to that of the workman who have been alleged to have committed a misconduct for the first time in their life. An element of compassion and appreciation of situation are necessary before inflicting the punishment. It is also become a common feature whenever a word "Mis-appropriation" is used, without understanding the magnitude of the offence alleged. The Disciplinary authority totally neglected the previous service record rendered by the workman. It is not an isolated event that requires punishment but the intention of the service background, one should involve in such circumstances shall be examined.

34. Having regard to these facts and circumstances, I have no hesitation to hold that the order of the enquiry officer is nothing but perverse. Since the Disciplinary authority and the appellate authority have failed to examine this report objectively their discretion in passing the order of dismissal is required to be interfered with. In the result I make the following order :

ORDER

The second party are not justified in dismissing the services of B. Devadas Achar w.e.f. 7-1-1992. Consequent to this finding the second party are directed to re-instate this workman immediately with continuity of service and payment of back-wages at 25 per cent. as the negligence of this workman to some extent responsible for initiation of domestic enquiry. The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 जून, 1999

का. शा. 2181--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन काउंसिल ऑफ रिसेच इंस्टीट्यूट के प्रबन्धन के संवद नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निबिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, इन्दुवकी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एल-42012/201/94-आई. आर. (डी.यू.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 5th July, 1999

S.O. 2181.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Idukki as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Cardamom Research Institute and their workman, which was received by the Central Government on the 5-7-99.

[No. L-42012/201/94-IR(DU)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, IDUKKI

(Dated, this the 3rd day of June, 1999)

PRESENT :

Shri F. V. Abraham, B.Sc., LL.B.,
Industrial Tribunal.

Industrial Dispute No. 21 of 1996 (Central)

BETWEEN

The Director,
Indian Cardamom Research Institute,
Spices Board, Myladumpara,
Kailasanadu P.O., Nedumkandam,
Idukki Dt., Kerala Pin-685553. Management.

AND

Shri S. Kamaraj,
Worker, Indian Cardamom Research
Institute,
Mydadumpara, Kailasanadu P.O.,
Idukki Dt. Kerala, Workman

REPRESENTATIONS :

1. M/s. Joseph & Markose,
Advocates, Vellappilly Lane,
Kottayam-1. For Management.
2. Shri Babu Paul B.A.L.L.B.,
Advocate, Peermedu, For Workman.

AWARD

The Government of India as per Order No. L-42012/201/94-IR(DU) dated 27-12-1995 referred this industrial dispute for adjudication to this Tribunal.

The issue referred for adjudication is the following :—

“Whether the action of the management of Indian Cardamom Research Institute, Myladumpara, Idukki Dt., in discharging from the service Shri S. Kamaraj, worker with effect from 30-7-1992 is justifiable? If not to what relief the concerned workman is entitled to?”

Even though both sides appeared initially, the workman and his counsel remained absent on

7-4-1999. Therefore, the workman was declared ex-parte.

The workman has contented that he has been employed under the management from 13-6-1978. His daughter was suffering from acute illness and after undergoing treatment at Govt. Dispensary, Nedumkandam and Ayurveda Hospital, Nedumkandam, she was taken for better treatment to Tamil Nadu. Her condition was very severe from 1991 early March. Therefore, the workman had to take her for treatment at Tamil Nadu frequently after obtaining leave from the management. But without considering his pitiable position, the management issued show cause notices dated 23-6-1989, 8-2-1990, 18-1-1991 and 10-10-1991 incorporating similar allegation. The workman had submitted explanations denying the allegations raised against him. Despite that the management appointed an advocate as enquiry officer to conduct a domestic enquiry against the workman. The enquiry officer conducted a domestic enquiry in violation of the principles of natural justice. The workman has further contented that the findings of the enquiry officer was perverse and not based on the evidence in the enquiry. According to the workman he is not guilty of any misconduct and seeks to pass an award setting aside the punishment imposed on him.

The management has contented that the Indian Cardamom Research Institute is an establishment under the Spices Board for conducting research in the development of cardamom cultivation in India. The purpose of the research is to acquire knowledge about the new methods of cardamom cultivation and for development of the quality of cardamom produced in India. The activity is not a commercial or industrial activity and it cannot be described as an economic venture or a commercial enterprise as it is not the object of the management to produce and distribute services which would satisfy wants and needs of the consumers community. In the circumstance, the management contents that it is not an industry as defined under Section 2(j) of the Industrial Disputes Act. The management has further contented that the workman was in the habit of absenting himself from work without any leave or permission from 19-7-1979 onwards. He was repeatedly warned against such misconduct. However, he had continued to be habitually absent without availing leave. In the circumstance, show cause notices were issued to him. As his explanations were not satisfactory, a domestic enquiry was conducted in respect of the charges alleged against him. The enquiry officer permitted the workman to engage a co-worker in the enquiry. The workman cross-examined the witness of the management in detail. The workman himself was examined as a witness in the enquiry. The enquiry was conducted in compliance with the principles of natural justice. The enquiry officer found that the workman was guilty of the misconduct alleged against him. After considering the enquiry report, the management had decided to dismiss the workman from service and a show cause notice was issued to the workman directing him to show cause why the punishment of dismissal from service should not be imposed on him. A copy of the enquiry report was also furnished to him in order to enable him to submit his explanation. The workman had submitted a

representation. After going through the representation, the management had issued orders discharging the workman from the service with effect from 10-8-1992. In the circumstance, the management seeks to pass an award upholding the action of the management in discharging the workman from their service.

Even though the management has contented that they are not an industry as defined under Section 2(j) of the Industrial Disputes Act, it is well settled position of law as per several decisions of the Hon'ble Supreme Court that such establishments are industry. Therefore, I hold that the management establishment is an industry as defined under Section 2(j) of the Industrial Disputes Act.

The enquiry officer who was examined as MW1 has deposed that the domestic enquiry was conducted after affording the workman opportunity to defend himself in the enquiry and in compliance with the principles of natural justice. On going through exhibit M1 enquiry file it is seen that the workman was allowed to be represented in the enquiry by a co-worker and he had cross-examined the witness examined on behalf of the management. The workman had also adduced evidence on his behalf. There is nothing on record to show that the workman was denied any opportunity to defend himself in the enquiry. In the circumstance, I hold that the enquiry was conducted properly and in compliance with the principles of natural justice.

On going through the enquiry report, it is seen that the enquiry officer has considered the evidence in the enquiry and has rightly come to the conclusion that the misconduct alleged against the workman has been proved. In the circumstance, I hold that the finding of the enquiry officer is proper and sustainable.

The misconduct proved against the workman is that he had been habitually absent on several days without availing leave or permission from the management for the period from 1989 to 1991. The management has produced the muster rolls for the previous years also to show that he had been habitually absent without availing leave or permission on several days during the previous years also. Habitual absenteeism without leave or permission from the management is a very serious misconduct and in the circumstance, the punishment of discharge from service imposed on the workman is quite commensurate with the gravity of misconduct proved against him. In the circumstance, I hold that the workman is not eligible for any relief.

In the result, an award is passed holding that the workman is not eligible for any relief.

P. V. ABRAHAM, Industrial Tribunal

APPENDIX

Witness examined on the side of the management :—
MW1—Shri. M. V. Varkey, S/o Varkey, Nedumkandam.

Witness Examined on the side of the workman :—
NIL.

Documents marked on the side of the management :

Exhibit M1—The file containing enquiry proceedings, report, documents etc.

Documents marked on the side of the workman :—
NIL.

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2182.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्जन में, केन्द्रीय सरकार एक्सीक्यूटिव इंजिनियर, सी.पी. डब्ल्यू. डी. के प्रबन्धन के संबंध में निम्नलिखित आदेशों और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एन-42012/19/98-आई. आर. (डी. य.)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2182.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of the Executive Engineer, C.P.W.D. and their workman, which was received by the Central Government on the 5th July, 1999.

[No. L-42012/19/98-IR(DU)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/105 of 1998

Employers in relation to the Management of The Executive Engineer, C.P.W.D.,

AND

Their Workmen

APPEARANCES :

For the Employers—Mr. V. Narayanan, Advocate.
For the Workmen—Mr. R. B. Jaiswal, Advocate.

Mumbai, dated 21st June, 1999

AWARD

The Government of India, Ministry of Labour by its order No. L-42012/19/98/IR(DU) dated 11th August, 1998, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the management of Executive Engineer, C.P.W.D., Mumbai in not regularising the services of Mr. P. S. Sutar, M.L. Driver is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The Secretary of CPWD Mazdoor Union filed a Statement of Claim at Exhibit 5 for the workman. It is contended that the workman is working as a driver continuously on a regular nature of job. The management treated him as a

worker employed on contract on receipt of work orders. On this ground his services has not been regularised in the time scale of Rs. 950—1500.

3. The motor lorry drivers (MLD) in the establishment are getting regular pay scales and all other benefits of a government employee. It is averred that as per the orders of the Supreme Court dated 17th January, 1986 in the matter of Surendra Singh and Ors. Vs. Engineer in Chief C.P.W.D. the workman working at under respective categories of MLD held to be entitled to be paid the time scale of Rs. 950—1500 and also overtime. But the management arbitrarily pays less.

4. It is submitted that in the above said case the Supreme Court directed the management to pay the petitioners and all other daily rated employees the same salary and allowances as paid to the regular and permanent employees with effect from the date they were respectively employed and the Hon'ble Supreme Court also hoped that Government will take appropriate action to regularise the services of these workmen who have been in continuous employment for more than six months.

5. The Supreme Court observed "That Learned Additional Solicitor General appearing on behalf of the respondents states that the 91 workers except those who have already been regularised, will be regularised within the period of four weeks subject to their eligibility, and their seniority will be fixed later on. The regularisation will not confer any right to claim seniority from the date of entry. We are accepting the statement of the Learned Addl. Solicitor General and we close this petition. The contempt petition is disposed off accordingly."

6. It is averred that the management have regularised the service of many juniors to this workman in the Western Zone in the time scale of Rs. 950—1500 but the concerned workman is discriminated.

7. It is averred that the workman is having a proper driving licence, experience and fulfilling all requisite qualifications required for MLD in the pay scale of Rs. 950—1500. Even then the management is threatening the workman to be thrown out of the job if he claims regularisation.

8. The union pleaded that when the dispute was before the conciliation the A.I.C. directed the management to take steps for their regularisation. It is averred that the Chief Engineer (West Zone) has directed Superintendent Engineer, Bombay to fill up the vacancies of drivers immediately. But inspite of all this letter no action was taken by the management. It is submitted that for all these reasons the workman is entitled to regularisation as MLD (Motor Lorry Driver) in the time scale of Rs. 950—1500 with all consequential benefits and also entitled to arrears of wages from their initial date of engagement as Motor Lorry Driver.

9. The management resisted the claim by the Written statement (Exhibit-8). It is averred that the C.P.W.D. being the Central Government department filled up all vacancies by a selection procedure as laid down for the respective post after the posts are sanctioned by competent authorities. In the case of technical/skilled categories of post the candidates are requisitioned from regular employment exchange. It is submitted that the workman mentioned in the schedule are engaged on a work order/hand receipt basis as shown by the Division due to the exigency of work for a short time basis. He is engaged as a stop-gap arrangement till regular motor lorry driver is recruited as per the procedure laid down for such recruitment.

10. It is submitted that these drivers are paid the minimum of the scale of Rs 950—1500 plus usual allowances as applicable for Central Government Staff from time to time. As these drivers are engaged purely on temporary basis there is no question of their regularisation. It is pleaded that the Judgment referred by the workman specifies 'Equal pay for Equal Work'. In accordance with the spirit of the Judgment the payment is being made to those drivers. But so far as regularisation is concerned there is no category of jeep drivers in the hierarchy of the staff of C.P.W.D. Therefore the benefits of the scale of pay payable to motor lorry drivers as well as regularisation of their services as

jeep drivers is not possible. It is averred that the qualification required for M.L.D. is higher than that of the jeep driver. So far as appointment of jeep driver it was sufficient to have alight vehicle driving licence. It is pleaded that there is no parity in the duties discharged by motor lorry drivers and those discharged by light vehicle drivers.

11. It is averred that the workman is in engagement of the management for more than 240 days in a year, since 7-1-93 with breaks due to remaining absent from duty. He works purely on temporary basis in the department. It is therefore the Supreme Court's Order dated 17-1-86 is not applicable to this case. However, Cuttack Bench CAT order dated 1-5-98 may be referred to as the same is relevant. It is submitted that the workman is driving the jeep and not a motor lorry. Therefore he is not entitled to the benefits as claimed. It is averred that even though he possess the driving licence he is not having the experience of three years driving heavy vehicle. For all these reasons it is submitted that the workman is not entitled to the benefits as claimed.

12. The union filed a Rejoinder at Exhibit-10. It reiterated the contentions taken in the statement of claim and denied the contents in the written statement which are contrary to his claim. He prayed for the reliefs as claimed.

13. The issues are framed at Exhibit-12. The issues and my findings there on are as follows:—

Issues	Findings
1. Whether the action of the management of Executive Engineer, C.P.W.D. Mumbai in not regularising the services of Suttar, Driver is legal and justified?	No
2. If not, what relief the workman is concerned is entitled to?	As per order below.

REASONS

14. It is not in dispute that the workman is continuously serving with CPWD at New Mumbai. He had worked for more than 240 days in a year after 7-1-93. There are no breaks. There is no complaint against him. Admittedly he is paid in the scale of motor lorry drivers now.

15. So far as motor lorry driver, there are rules of recruitment. Exhibit-21 deals with the same. The age limit is 20 to 30 years. The qualification is ability to read and write. He must possess the driving licence for heavy motor vehicle and driving experience for a period of five years of which atleast three years should be driving heavy motor vehicle. There is also one another qualification a department test which states that practical driving test which should be fairly satisfied standard for department candidate, knowledge of running repairs of motor vehicles.

16. W. P. Chavan (Exhibit-14) affirms that the workman is having a heavy motor driving licence and requisite qualification as per the recruitment rules. He belongs to OBC. This position is not challenged by the management in the cross examination. Sanjay Sharma (Ex. 15) the Executive Engineer with the CPWD affirms that there are requisite conditions for getting the post of Motor Lorry Driver. But in his division there is no heavy vehicle. They have the jeep there and it is being driven by the workman. He deposes that as the workman was not driving heavy vehicle in their department, therefore, it cannot be said that he had experience of driving heavy vehicle in 1992. It is pertinent to note that the driving licence of the worker (Exhibit-24) is of the year 1987. Initially he was appointed by the Division in the year 1991. In 1991 and 1992 he was not in continuous employment. Looking to the date of the driving licence and his first employment there is no reason to disbelieve the workman that he had three years of actual experience of driving that vehicle. It can be further seen that thereafter since 1993 he is in continuous employment of this Division.

17. Sharma deposed that prior to 1994 there was a ban for recruitment. It is therefore it appears that the workman was appointed in a hand receipt or on work order basis. It has to be taken into consideration that atleast from 1993 he is continuous employment. Sharma in cross examination

accepts that today there is a vacancy in his department. The workman belongs to OBC category (Exhibit-27). Sharma utters that without approval the post cannot be filled up. He does not know whether the department had approached the Government for recruitment as he was posted there for last 14 years.

18. Looking to all these circumstances it is very clear that there is a post of motor lorry driver in the department. It is not filled up. The workman is eligible for that post. He is continuously working as a driver in that department. I, therefore, find that he is entitled to regularisation on the said post.

19. The workman has prayed for the dues on the basis that he should be paid wages from the date of his appointment that is from 7-1-93. I am not inclined to accept it. It is because there was a ban on recruitment. Then the Government relaxed the same and now as per the testimony of Sharma there is a vacancy which can be filled up. It means that vacancy accrued on a particular date. The date is not on the record. The workman is entitled to regularisation from that date and not from earlier date. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

The action of the management in not regularising the services of Mr. P. S. Sutar, M. L. Driver is not legal and not justified.

The managements directed to regularise his service from the date of the availability of the vacancy. The workman is entitled to all benefits from the date of regularisation and not from the earlier date.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 जुलाई, 1990

का. मा. 2183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत मोल्ड मार्ब्ल्स लि. के प्रबन्धन के संबंध विरोधकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिकरण, बंगलूर के पंजाब को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एल-43011/01/91-माई. आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1990

S.O. 2183.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workmen, which was received by the Central Government on 6-7-99.

[No. L-43011/01/91-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 29th June, 1999

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 47/1991

I PARTY

The Secretary,
B. G. M. Employees Union,
Champion Reef,
K.G.F.-563101.

II PARTY

The Managing Director,
Bharat Gold Mines Ltd.,
Oorgaum,
K.G.F.-563120

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43011/1/91-IR (Misc.), dated 18-7-1991 on the following schedule:

SCHEDULE

"Whether the action taken by the management of BGML, KGF in dismissal S/Shri Kuppan and Shivashankar, General Labourers from service on charges of theft is justifiable. If not, what relief they are entitled to?"

2. The concerned workmen in this dispute are Kuppan and Shivashankar, General Labourers. Both these workmen have been dismissed from service w.e.f. 11-6-1990. The orders are at Ex. M-22 and Ex. M-23. The order of dismissal is based on the findings of an enquiry officer, Ex. M-18, who has conducted a domestic enquiry jointly on the allegation of charges levelled against them.

3. The allegation of charges was that on 25-8-89 at 106 W.L.S. Wires in N2 Section of Giffords Shaft both these workmen were indulging in illegal activities of pounding GBQ pieces and at that time they are apprehended by GD. Havaladar and his party. One gunny bag containing GBQ pieces about 2.250 Kgs., one 8 lbs hammer and one plug bar was recovered from them. This charge sheet was based on the report made by the Havaladar. These workmen were also handed over to the police as their action amounts to theft punishable under IPC and also under the Mines Act.

4. After all formalities the enquiry was initiated. The enquiry officer examined as many as 14 witnesses and gave full opportunity to these workmen for purpose of cross examining and also to make their defence.

5. The first party workmen raised contentions in their claim statement initially denying their involvement in the allegation made by the second party and they also maintained that they are not indulged in committing of theft. They have questioned the fairness of domestic enquiry by making several averments.

6. The second party have justified the action taken by them in dismissing these workmen as the allegation of theft is a serious offence and same having been proved the order of dismissal is correct and proper. As it regards to the validity of domestic enquiry they have contended that the enquiry officer has conducted the domestic enquiry by giving all opportunity and also they being represented by an able Union leader, there is no scope for concluding that the domestic enquiry was conducted not in accordance with law.

7. We have framed a preliminary issue to give a finding on the validity of domestic enquiry. After recording the evidence of enquiry officer and one of the workman this tribunal gave a finding that the fairness of the domestic enquiry does not call for any interference. After arriving at such conclusion the first party was directed to substantiate their averments as it regards to their innocence based on the evidence, perversity in findings and any other legal defence.

8. The Learned Advocate for the second party contended that the management was able to initiate a domestic enquiry where the enquiry officer gave a finding of guilt relying on evidence of 14 witnesses and therefore there is no scope for making allegations by these workmen that enquiry officer gave a finding without appreciation of evidence. It is further contended that the offence of theft is a serious offence which amounts to moral turpitude and therefore the management have no faith against this workmen and in view of this, this tribunal shall uphold the order of dismissal in the interest of justice.

9. The learned Advocate for the first party Shri K. V. S. has submitted the allegations made in the charge sheet based on complaint it does not reveal that these workmen were caught when they are doing theft of the company property.

10. According to the learned Advocate that if these workmen were caught while transporting the property of the second party than alone it constitutes the offence of theft.

11. Though to some extent there is logic in the submission of learned Advocate, we cannot extend the definition of theft only to that a person who is found carrying the stolen articles. Even an attempt to commit theft or preparation to make theft are punishable equally as that of a man is apprehended while he is carrying the stolen articles.

12. Since this tribunal held the validity of domestic enquiry is fair and proper unless the materials placed by the first party to show that the report of the enquiry officer is perverse, one cannot independently examine the evidence in order to come to a different conclusion.

Having regard to these facts and circumstances, the management are justified in dismissing the services of these workmen for the proved misconduct of committing theft.

The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. ग्रा. 2184 — औद्योगिक विवाद प्रविनिधम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लि. के प्रबन्धतंत्र के संबंध मिथोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एल-43012/02/91-आई. ग्रा. (विनिधम)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2184.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workmen, which was received by the Central Government on 6-7-99.

[No. L-43012/02/91-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 29th June, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 69/1991

I PARTY

The President,
KGF Electricity Department
Labour Association,
(Independent),
Oorgaum,
K.G.F.-563120.

II PARTY

The Managing Director,
Bharath Gold Mines Ltd.,
Oorgaum,
K.G.F.-563120

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/2/91-IR (Misc.) dated 10-10-1991 on the following schedule:

SCHEDULE

"Whether the action taken by the management of B.G.M.L. in stopping three annual increments of Sri Simon, Loco Driver in the Champion Reef Mine for alleged neglect of duty and absence from the place of work without prior permission is justifiable? If not, what relief he is entitled to?"

2. The concerned workman in this dispute is Sri Simon, a loco driver. On 7-3-1988 a show cause notice was issued to him for breach of metalliferous Mines Regulations, 1961 of Section 57(5) leading breach of standing order No. 15(b)(2) and (5). The allegation of charge was that he was found absent without prior permission or sufficient cause from the appointed place of work. Though he was all accepted to work at 80th level health coat shaft, he has left the loco at about 1.00 a.m. at 80th level unattended and substantially the loco was hoisted to 70th level and in that process at 70th level the loco started moving towards the shaft and due to unattendance, the shaft gate was broken then causing heavy damages to the shaft as well as to the loco. After receiving a reply which being unsatisfactory a domestic enquiry was conducted by the Assistant Personnel Manager. The enquiry officer on the assessment of both oral and documentary evidence gave a finding against this workman. The management accepted the findings and after giving show cause notice his pay was reduced by 3 increments from Rs. 592 to 556.

3. The first party workman raised various contentions as it relates to the merits of the case and also questioned the validity of domestic enquiry. The management in their counter statement supported the mode of enquiry contended by the enquiry officer and also the resultant punishment imposed against this workman.

4. This court has framed a preliminary issue to give a finding on the validity of domestic enquiry after taking the evidence of the enquiry officer and the workman an order was passed on 3-6-1999 that the domestic enquiry was conducted in accordance with law.

5. Though the first party has contended that the order of the enquiry officer is perverse he has not placed any material to substantiate the same. Since this tribunal held that the enquiry was fair and proper, there is no scope to interfere with the findings unless it is prima-facie shown that it is a perverse order. This court cannot reassess the evidence to come to a different conclusion than what was raised by the enquiry officer. Such course cannot be adopted as it amounts to review of the findings of the enquiry officer.

6. There is ample evidence as to damage caused due to negligence of this workman inside the mine. When this being the case, the punishment imposed against him does not call for any interference. In the result I make the following order:

ORDER

The second party are justified in imposing the punishment shown in the schedule.

The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2185.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एन-43012/08/92-आई. आर. (विवाद)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2185.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on 6-7-99.

[No. L-43012/08/92-IR (Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE

Dated 29th June, 1999

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 13/93

I PARTY

The Secretary,
Bharath Gold Mines
Employees
Union,
Marikuppam,
K.G.F.

II PARTY

The Managing Director,
Bharath Gold Mines Ltd.,
Oorgaum,
K.G.F.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/8/92-IR (Misc.) dt. 4-2-93 for adjudication on the following Schedule.

SCHEDULE

“Whether the management of BGML is justified in imposing the punishment of reducing the pay of Smt. Padmini, a staff nurse from Rs. 1337 to Rs. 1225 i.e. by four increments? If not, to what relief the workman is entitled?”

2. The II Party management have imposed the punishment of reduction of pay of Smt. Padmini a Staff nurse after conducting a domestic enquiry on the allegation of sub-letting the quarters allotted to her, to her brother Sri Raman.

3. The undisputed facts are that the management has allotted a quarter No. 4 in Soil Cement block, Kuppam vide Order dt. 16-5-85. It is also undisputed that her father was the original allottee of this quarters. After his retirement on the request made by Padmini this was allotted in her name. One more condition was that she shall vacate the quarters within one year.

4. It is alleged that she has married one Sri Jeena-vanasa who was working as a clerk in Mysore Mines. This person was in possession of a quarter No. 660 at married quarters, Champion Reef. The management on receipt of a representation dt. 16-3-90 by a fictitious person, highlighting that this lady is living in the house of her husband at quarter No. 660 and the quarter No. 4 has been sublet to her brother Sri Raman who is an employee in Bharath Earth Movers Ltd., initiated action.

5. The management made some discrete enquiry and on the submission of a Report by the Vigilance Inspector on 31-3-90 (Ex. M18) issued a charge sheet Ex. M1 dt. 20-7-90.

6. The contentions raised in the reply by Padmini is that due to some domestic problems she is not leaving in the house of her husband and she is living in the quarters No. 4 along with her father who is sick and her brother visits them due to the relationship. She has also contended that she is separated from her husband and is living with her father from past 4 years. Her brother Raman is residing in a rented house in non-mining area.

7. This reply was not accepted by the management, therefore they have conducted a domestic enquiry.

8. The Secretary, Bharath Gold Mines Employees Union espoused the cause of this workman to make this reference. In the Claim statement, the I Party has denied the averment of subletting. As it regards to domestic enquiry the prime contention is that the report is perverse and the Enquiry Officer had a biased mind.

9. The II Party have justified the punishment and also the mode of enquiry conducted against the I Party.

This Tribunal framed a preliminary issue to give a finding on the validity of domestic enquiry. After recording the evidence of the Enquiry Officer and the concerned workman gave a finding in favour of the management vide Order dt. 4-3-99.

10. The Learned Advocate for the II Party has submitted that the undisputed facts available in this case lead to a logical conclusion that this workman has sub-let the quarters allotted to her and also failed to vacate the quarters even after one year of its allotment as laid down in the Allotment Order. It is also submitted that on the available materials, the Enquiry Officer gave a finding against this lady which was accepted by the Disciplinary Authority.

11. Sri K. V. Satyanarayana, the Learned Advocate for the I Party has submitted that the evidence on the basis of which the Enquiry Officer gave a report of the charges being proved is a perverse order. The findings does not lead to the conclusion that this lady has sub-let the quarters allotted to her.

12. I have carefully perused the evidence to find out whether the Report of the Enquiry Officer is not supported by the evidence on record or the evidence was sufficient to come to a conclusion against the workman.

13. It is undisputed that the quarters No. 4 was allotted to the I Party workman. Though the stipulation was to handover the possession one year after the allotment, the management has not made any efforts to take possession of the quarters. They have allowed her to continue possession which goes to show that they have recovered the rent fixed for the quarters. It is also undisputed that in quarter No. 4 the father and sister of the I Party are living. If a quarter is allotted to an individual there is no rule that her other family members should not live along with her. The prohibition may apply to any married sisters and employed brothers. As it regards to the father, it is the duty of the children to take care of him in his old age by allowing him to live with them.

14. The Enquiry Officer relied on the findings of Vigilance Inspector and he has totally disregarded the statement made by the CSE. When she has made a specific averment that she is not living with her husband and they have separated, this fact require to be investigated by the II Party. There is no impediment to take a statement of her husband to prove that she is giving a false statement. Generally, no woman in this country gives a statement of separation unless it is a fact. Therefore, the Enquiry Officer was not justified in giving a finding on unrebutted evidence and also has not given reasons why he has not accepted the statement of the CSE. Therefore, the Report of the Enquiry Officer is a perverse Order which is not based on a legal and acceptable evidence.

15. It is not out of place to mention that the management have made an Order vide Ex. M14 that they are intending to take a lenient view and therefore directed the workman to vacate and handover the quarter within 2 months from the date of the Order. When the workman made an appeal that she required the house for her own use as she still continued to

work as a staff nurse in BGML Hospital, the Order should be reconsidered. She has again pressed into service her marital status as contended earlier. The management would have rejected this & should have taken possession of the house on the powers vested on them. On the contrary, the management took the appeal made by this lady as offensive and passed an Order in continuation to the Order of vacating the quarter, imposing punishment of reduction in the basic pay. This is nothing but imposing the punishment which was not considered to the Show Cause Order. Therefore, it amounts to double jeopardy. This method is legally unrecognised.

16. Having regard to these facts and circumstances, the following Order is made.

ORDER

The II Party are not justified in imposing the punishment of reducing the pay of Smt. Padmini, Staff nurse from Rs. 1337 to Rs. 1245. Consequent to this Order Smt. Padmini is entitled to recover the amount which was reduced in her basic pay.

Justice R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम. टी. एन. एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, मुंबई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एल-40012/9/98-आई. आर. (डी यू)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2186.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of The Divisional Manager (Telex) (Extl.) and their workman, which was received by the Central Government on 5-7-99.

[No. L-40012/9/98-IR(DU)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/94 of 1998

Employers in relation to the management of the Divisional Engineer (Telex) (Extl.).

AND

Their Workmen.

APPEARANCES :

For the Employer : Mr. S. R. Rajguru, Advocate.
For the Workmen : Mr. N. Y. Lokhande, Advocate.
Mumbai, dated 21st June, 1999

AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/9/98/IR(DU), dated 20-7-98, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the Management of Mahanagar Telephone Nigam Ltd., Mumbai by terminating the service of Ms. Mani Alji Kundhadiya w.e.f. 1-6-1996 is justifiable? If not, to what relief the workman is entitled to?"

2. Shri Mani Alji Kundhadiya, the workman contended that she was employed by the Chief General Manager, Mahanagar Telephone Nigam Ltd. as a sweeper under the SDE, Telex (Extl.) PBD-1, from 3-2-94 to 28-6-96.

3. The workman averred that eventhough she worked during that period the certificate which was issued to her shows that she worked between the period 3-2-94 to 31-5-96. It is averred that while terminating her services she was not given any reasons nor she was paid any compensation as required under the Act. It is submitted that under such circumstances her termination is illegal. She prayed that she may be reinstated in service in continuity alongwith back wages i.e. from 1st June, 1996.

4. The management resisted the claim by the Written Statement (Exhibit-5). It is averred that the Assistant Engineer (Telex) was shifted at telephone complex, Parel in January, February, 1989 from Prabhadevi. It has a space admeasuring 4920 sq. ft. with a ground and first floor while surrounding area is 600 sq. ft. At Prabhadevi there was regular staff for sweeping and cleaning purposes. There were no regular employees for sweeping and cleaning purposes at Parel. It is therefore the general sanction was issued on 25th April, 1989 by which the General Manager sanctioned Rs. 650 p.m. for that purpose. Different persons were engaged to do the work. Thereafter from 3rd February, 1994 the present workman was engaged, for the sweeping purposes on the basis of different sanctions for different period. It is averred that she was in employment on a contract basis for a definite period and after the expiry of that period her employment was over. It is therefore, her services cannot be said to be terminated and retrenched as contemplated under the Industrial Disputes Act of 1947. It is averred that her engagement was without any sponsor from the employment exchange, Bombay. Service rules were not applicable to her nor any leave or other benefits were given to her. It is averred that in the event of her absention from work she was sending substitute workmen to do the said job. For all these reasons it can be said that she cannot be said to be in continuous employment as claimed but he was in employment intermittently for a fixed period as per the sanctions. It is submitted that under such circumstances she is not entitled to any reliefs as claimed.

5. The workman filed a rejoinder at Exhibit-6. She contended that the work she was doing was of a perennal nature. She did so till the regular appointment was carried out on 1st June' 96. It is submitted that the office had given a certificate that she was engaged on a contract basis for a period of 3-2-94 to 31-5-96. That shows that she was appointed on contract basis. It is averred that the work she was doing was not for the 1-1/2 hours duration but for a full day. It is asserted that she worked continuously for more than 240 days in a preceding 12 calendar months from her termination. It is averred that she is entitled to the benefits as claimed.

6. The issues are framed at Exhibit-10. The issues and my findings thereon are as follows :—

Issues	Findings
1. Whether the termination of the workman does not amount to retrenchment as contemplated	It amounts to retrenchment
2. Whether the action of the management of Mahanagar Telephone Nigam Ltd., Mumbai by terminating the services of Ms. Mani Alji Kundhadiya w.e.f. 1-6-96 is justified?	No.
3. If not, to what relief she is entitled to?	As per order below.
REASONS	
7. Mani Alji Kundhadiya (Ex-11) the workman affirmed that she was appointed as a sweeper from 3rd February' 94 till the end of May' 96. The job was of a perennal nature. She affirmed that she worked continuously for more than 300 days, a year. She was not given any notice nor compensation in lieu of notice pay at the time of termination. She states that she worked from 8.30 a.m. to 1.30 p.m. on working days and on some occasions up to 2.00 p.m. In the cross-examination she admits the fact that she was not sponsored by employment exchange. She also accepts that when she got married, she remained absent for about three days but at that time she send her brother for work. She produced a certificate showing that she worked between 3-2-94 to 31-5-96. So far as her working days are concerned there appears to be no dispute. In other words she had worked for more than 240 days, in 12 months prior to her termination.	
8. Hemant Yeshwant Sane, (Ex-14) the Sub-Divisional Engineer affirms that initially their office was at Prabhadevi. Then it was shifted to Parel. There was no regular sweeper on their establishment. It is therefore the General Manager sanctioned Rs. 650/- p.m. for getting the work of sweeping done. Some persons were appointed and the work was carried out. From February' 94 onwards till the end of May'96 workman was appointed as per the sanctioned order.	
9. Exhibit-9/1 is a general sanction given by the General Manager towards the contract charges for sweeping and cleaning the office to the extent of Rs. 650/- p.m. On this basis the Assistant Engineer (Administration) used to give sanctions for incurring expenditure for wages for relevant period. Such sanctions are produced alongwith (Exhibit-9/2 to 5).	
10. After perusal of these sanctions it reveals that the sanction is given for incurring the expenditure for wages of that particular month. It does not relate to a particular person for that much period. Exhibit-9/3 is a sanctioned order dated 26th July' 93 for 9 months i.e. from July' 93 to March' 94. It appears that on the basis of this sanctioned order the workman was paid wages from 3-2-94 onwards. Then there are sanction orders produced at Exhibit-9/4 of different periods by which wages were paid to the workman. These sanction orders nowhere states that the workman was engaged for this particular period. On the contrary from the basis of this sanctioned orders it reveals that she was paid wages. The payment and engagement was continuous.	
11. Sane admits that the work which was done by Mani is the same work, now which is done by regular employee. In other words it has to be said that whatever work was done by Mani was of a perennal nature and she was doing it for the full day and not 1 1/2 hours as alleged by the management.	
12. It is not in dispute that while terminating her services she was not given any compensation or notice charges. As she is in continuous employment for more than 240 days in a year her termination amounts to retrenchment. I am not inclined to accept that she was engaged for a fixed period and after the period is over her services automatically came to an end for the reasons give above.	
13. The Learned Advocate for the management placed reliance on Delhi Development Horticulture Employees Union Vs. Delhi Administration Delhi IT 1992 (1) SC 394. That was a case where the petitioners were employed on daily wages basis in Jawahar Rojgar Yojana. The scheme was	

for rural poor and not to provide right to work. Their Lordships observed that a right to regularisation is to frustrate the scheme. The facts of that case are quite different than the facts before me.

14. The Learned Advocate for the management also placed reliance on State of Rajasthan Vs. Rameshwari AIR 1996 (SC) 1001. That was a case wherein Their Lordships observed that when appointment is a fixed period it is covered by section 2(00) (bb). In that case termination is not retrenchment and not illegal unless it is malafide. I have already observed above the appointment of the workman cannot be said to be an appointment for a fixed period. Therefore the ratio in the above said authority has not application.

15. The Learned Advocate for the management also placed reliance on Himanshu Kumar Vidyarthi & Ors. Vs., State of Bihar 1997 AIR SC 1997. Their Lordships observed that appointment made on the basis of need of work, termination of their service can not be construed to be retrenchment. Here in this case the work which is carried out by Mani was of a perineal nature. It is admitted position that the work she did continued to be done by a regular employee later on. It is therefore, the ratio given in this authority has no application.

16. For all these reasons I record my findings on the issues accordingly and pass the following order :

ORDER

The action of Management of Mahanagar Telephone Nigam Ltd., Mumbai by terminating the service of Ms. Mani Alji Kundhadiya w.e.f. 1-6-1996 is not justified.

The management is directed to reinstate her in service in continuity and pay her back wage w.e.f. 1-6-96.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कलकत्ता टेलिफोन्स के प्रबन्धन के संघर्ष, नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एल-40012/122/93-आई. आर. (डी यू)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Telephones and their workman, which was received by the Central Government on 5-7-1999.

[File No. L-40012/122/93-IR(DU)]
B. M. DAVID, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 40 of 1994

PARTIES :

Employers in relation to the management of Calcutta Telephones

AND

Their workman.

PRESENT :

Mr. Justice A.K. Chakravarty, Presiding Officer.

APPEARANCE :

On behalf of Management.—Mr. Tapas Chowdhury, Advocate.

On behalf of Workman.—Mr. Madhusudan Dutta, Advocate.

STATE : West Bengal.

INDUSTRY : Telephones.

AWARD

By Order No. L-40012/122/93 dated 14-11-1994 the Central Government in exercise of its powers under section 10(1) (d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Telephone in terminating the services of Shri Tapan Kumar Ghosh, a casual workman w.e.f. 1-8-1991 is proper and justified? If not, what relief the workman is entitled?"

2. The concerned workman Tapan Kumar Ghosh initiated this reference challenging the order of the management terminating his service as a casual workman with effect from 1-1-1991. His case, in short, is that he was appointed as a casual workman in 66 Exchange of the Calcutta Telephones for cable laying and overhead work on 30-5-1989. He worked there till June 1990 and one Mr. S. K. Mitra, S.D.O.(P) II/66 Exchange issued a certificate in his favour that he worked for 269 days during the above period. His service was thereafter terminated abruptly without compliance of the provisions of section 25F of the Industrial Disputes Act, 1947. In the next phase of his work under the management of the Calcutta Telephones from December, 1990 to July, 1991 under one M. N. Ghosh, the then D.E. (T), 60/68 External, he alleges that he had worked for more than 240 days at that time. His service was terminated on 1-8-1991 again without compliance of the provisions of section 25F of the said Act. The workman made representation against his illegal termination without any effect. The conciliation proceeding initiated by the workman for his reinstatement also failed. The workman accordingly prayed for an Award for holding that termination of his service with effect from July 1990 and again in 1991 were illegal and void and for his reinstatement in service with effect from July, 1990 with back wages.

3. The management of the Calcutta Telephones filed a written statement alleging, inter alia, that the engagement of the casual mazdoor does not amount to employment of such casual mazdoor and there being no employer—employee relationship between them, no question of retrenchment or compliance of Section 25F of the Industrial Disputes Act, 1947 can arise. It is further alleged that the concerned workman was engaged for one particular job and on completion thereof the management was compelled to disengage the concerned workman as no work was available for him. It is also alleged that since the workman did not work for a continuous period of 12 months from May, 1989 to June, 1990 he shall not be entitled to any statutory protection. Regarding the second phase of his work from December, 1990 to July, 1991 it is alleged that he only worked for 207 days. The management accordingly prayed for dismissal of the case of the workman.

4. In his rejoinder to the written statement of the management, the workman has alleged that the management should behave like a model employer and should not take recourse to technical objections despite utilising his service for more than 240 days in both the phases of his work under the management. The other allegations are merely repetition of his allegations in his written statement.

5. Apart from production of certain documents by the parties, they also examined one witness on each side.

6. Heard Mr. Madhusudan Dutta, Learned Advocate appearing for the workman and Mr. Tapas Chowdhury, learned Advocate for the management.

7. There is hardly any contest regarding the period of service rendered by the concerned workman in the first phase. In support of his case that he had worked from May 1989 to June 1990 in the first phase, the workman has produced one certificate issued by one S. K. Mitra, S.D.O.(P)—II/66 Exchange of the Calcutta Telephones vide Ext. W-1. The certificate issued by this office was confirmed subsequently by Mr. S. Das, Dy. M.A., Howrah CID by his letter dated 9-3-1993 to the Assistant Labour Commissioner-II (Central), Calcutta. The witness of the management Sailaj Mohan Paul, a Sub-divisional Engineer has nothing to say against this certificate as it will appear from his evidence. Regarding the second phase of his work from December 1990 to July, 1991, the management's case that the period of service of the workman during this period was 207 days only was confirmed by the concerned workman in his cross-examination before this Tribunal. It has accordingly been proved that the workman had rendered 269 days of service between May 1989 to June 1990 and 207 days from December 1990 to July 1991.

8. Admittedly, the management had not complied with the requirements of section 25F of the Industrial Disputes Act, 1947 (in short the Act) before termination of the service of the concerned workman in either of these two phases. The question is whether it was mandatory for the management to comply with such provisions in the facts and circumstances of this case.

9. The workman thus having admittedly rendered service in two phases, a phase-wise independent assessment of such work for the purpose of application of section 25F of the Act shall be necessary. It is to be remembered that the reference is concerned with the justification of the termination of service of the concerned workman with effect from 1-8-1991. This Tribunal is therefore not concerned with the legality or validity of the termination of service of the concerned workman in June 1991 in respect of which also the provisions of section 25F of the Act was said to be applicable by the workman in his written statement. Phase-wise division of service rendered by the workman being thus not required in this case, the service rendered by the concerned workman in either of the two phases, either jointly or separately, is to be considered for calculation of continuous service for a year in the light of section 25F of the Act.

10. Section 25B of the Act consists of two parts, namely, section 25B(1) and 25B(2). For the purpose of calculation under section 25B(1) the workman is required to render uninterrupted continuous service for a period of one year, excepting interruption on account of sickness, authorised leave or accident or legal strike or lock-out or cessation of work which is not due to any fault on the part of the workman. If there is such uninterrupted continuous service for one year at a time, the management is bound to comply with the provisions of section 25F. In the instant case, the certificate produced by the workman vide Ext. W-1 in support of service from May 1989 to June 1990 will at once show that the service was not uninterrupted. In most of the months he had rendered 20 days of service. There is neither any case nor evidence that the breaks of service in each month falls within the exceptions mentioned in Section 25B(1). In respect of the second phase of his work the workman having admitted that he only worked for 207 days from December 1990 to July 1991, there is no question of application of Section 25B(1) of the Act in this case. If the entire period of service rendered by the workman is considered as a whole that also will not show that he was in continuous service for one year as required under Section 25B(1) of the Act. There being thus no continuous service of the workman for a period of one year, no question of violation of section 25F of the Act in terms of section 25B(1) of the Act has been proved in this case.

11. In so far as rendering of one year's service under section 25B(2) of the Act, the workman has to prove that he had rendered service for 240 days during the period of 12 calendar months preceding the date to which the calculation is to be made. The service of the workman having been admittedly terminated on 1-8-1991, the workman has got to prove that he has rendered service for 240 days from 1st August, 1990. I have already shown that in the first phase of work the workman worked upto June 1990 and in the

second phase he worked from December 1990 to July 1991. The starting point for the purpose of calculation of one year under section 25B(2) of the Act being 1-8-1990 and from that period till termination of his service on 1-8-1991 the concerned workman having admittedly rendered 207 days of service, he shall not also be entitled to get benefit of this provision for the purpose of application of section 25F of the Act. The starting point of calculation cannot, but be any other date excepting the date of termination of the service of the workman as he had been in the employment of his employer prior to such date. For application of section 25F of the Act actual continuous uninterrupted service for one year as understood in section 25B(1) or deemed continuous service for a period of one year by rendering service for 240 days within one year from the date of termination of service as required under Section 25B(2) of the Act having not been proved, the management was not bound to comply with the provisions of section 25F of the Act while terminating the service of the concerned workman. (See Mohan Lal v. Management of Bharat Electronics Ltd., reported in 1981 Lab. I.C. 806 = AIR 1981 SC 1253).

12. The claim of the workman being entirely based upon non-compliance of the provisions of Section 25F of the Industrial Disputes Act, 1947 and the concerned workman having failed to prove that the management had any obligation to comply with such provision, the workman shall not be entitled to any relief in this case.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer
Dated, Calcutta,
The 22nd June, 1999.

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एल-43012/24/91-आई. आर. (विविध)]
बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workman, which was received by the Central Government on the 6-7-99.

[No. L-43012/24/91-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE

Dated 29-6-1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 2/1993

I PARTY

The President,
Bharat Gold Miners' Assn.,
No. 545, Near Punjabi Line,
Oorgaum P.O.,
K.G.F.

II PARTY

The Managing Director,
Bharat Gold Mines Ltd.,
Oorgaum-563 120
K.G.F.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/24/91-IR (Misc.) dated 30-12-92 on the following schedule :

SCHEDULE

"Whether the action of the management of Bharat Gold Mines in dismissing Shri Ananda Nambi, General Labourer w.e.f. 1-2-1991 justified ? If not to what relief the workman is entitled ?"

2. The concerned workman Ananda Nambi was dismissed from service after conducting a domestic enquiry for unauthorised absence without intimation for about 292 days from February 1990 to January 1992.

3. The first party raised the Industrial Dispute.

4. His contention in the claim statement is that he was suffering from too many diseases like jaundice, Hepatitis and peptic ulcer. He has taken treatment at Tamil Nadu and he was prevented to attend the duty due to these ailments. He has also questioned the validity of domestic enquiry. He prays that the benevolent provision contained in Section 11A required to be considered for his re-instatement and other benefits.

5. The second party in their counter statement have highlighted at Para No. 4 that second party imposed various type of punishment all together on five occasions which included suspension for one day; suspension for four work days; reduction of one increment; reduction of basic pay to minimum grade, and warning. The above punishment are before his long absence of 292 days.

6. We have initially decided to give a finding on the validity of domestic enquiry and therefore a preliminary issue was also framed. This was done due to the averments made by the first party. Infact MW-1 secured and his evidence was partially recorded. Due to his continuous ill-health the progress was not made and infact the second pray is moved this court to record the further evidence of MW-1, by taking a commission. At this juncture, we had the benefit of looking into the enquiry papers which are marked from Ex. M-1 to M 3. Since the workman

gave the same reason as given in the claim statement the enquiry was initiated. Infact he has pleaded guilty before the enquiry officer. In spite of pleading guilt the management has recorded the statement, of the witness and on the strength of all these materials, a finding was given against him.

7. The Disciplinary authority has taken into consideration his plea of guilt to the charge sheet and also previous conduct and passed an order of dismissal.

8. This tribunal has taken these facts into consideration and on this proved facts it found that it is totally unnecessary to give a separate finding on the validity of domestic enquiry as this workman pleaded guilty.

9. It is submitted by the learned Advocate for the first party though he has pleaded guilty for charges levelled against him, the management has not proved the alleged punishment imposed to him prior to these incident.

10. Indeed the management made the averments but those averments are not denied by the workman. When this being the case there cannot be a question of providing a fact not challenged. Admittedly the first party has not improved his attendance even after minor punishment was given to him since he has pleaded guilty and the report of the enquiry officer based on his statement made by the first party and also material placed by the management the conclusion reached by him cannot be called as perverse.

11. The Benevolent Provisions contained in Section 11A cannot be extended in this case as the first party not only committed a misconduct which affected the production of the company, the first party also shown his negligence and carelessness in performing the duties entrusted to him by remaining absent without any reason. Therefore he is not entitled for any relief under Section 11A. In view of these circumstances I make the following order :

ORDER

The second party are justified in dismissing the services of the first party on a proved misconduct.

The reference is answered accordingly.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2189.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुंबई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एल-40011/20/93-आई. आर. (डी य)]

जी. एम. डेविड, हेरक अधिकारी

New Delhi, the 6th July, 1999

S.O. 2189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 5-7-99.

[F. No. L-40011/20/93-IR(DU)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer,

Reference No. CGIT-2/126 of 1998

Employers in relation to the management of Telecom.

AND

Their Workmen

APPEARANCES:

For the Employer—Mr. S. B. Kadam, Representative.

For the Workmen—Mr. R. M. Oke, Representative.

Mumbai, dated 15th June, 1999

AWARD

The Government of India, Ministry of Labour by its Order No. L-40011/20/93-IR(DU) dated 15-9-98, had referred to the following Industrial Dispute for adjudication :

“Whether the action of the management of Telecom Factory Deonar in not fixing the scale of pay of Fireman as Rs. 950—1500 is legal and justified? If not, what relief the concerned workmen are entitled to ?”

2. The union pleaded that the firemen are appointed in Group ‘D’ cadre of a regular establishment in the pay scale of Rs. 196/232 pre-revised pay scale before Fourth Pay Commission which was revised on implementation of CCS (RP) Rule 1986 as 750/940.

3. The union averred that the duties are expected to be carried out by these firemen are filling up chemical fire extinguishers, testing of chemical fire extinguishers to withstand the pressure so generated inside the chemical fire extinguishers when the same is put into operation, maintenance of horse pipes, getting horse in worthy conditions, periodical check up of now of wagger through fire hydrants etc. The eligibility of this is matriculation plus training in fire fighting from the said recognised institutions.

4. As per the norms fixed by the Bombay Fire Brigades, the pump operator is skilled job and for the skilled job the pay scale prescribed in the Telecom

Factory Mumbai is 950/1500 in the Ordnance Factory the firemen has been provided with the scale 825—1200; heading hand 975—1150 and driver-cum-operator 950/1500. The firemen in BARC has been granted the pay scale :

Fireman ‘A’ 950/1400

3050/4590

Fireman ‘B’ 1150/1500

Fireman ‘C’ 1200/1800

4000/6000

Leading Fireman ‘B’ 1320/2040

4000/6000

Leading Fireman ‘C’ 1400/2300

4500/7000

5. The union contended that the firemen of the Telecom Factory are skilled workers. Their nature of duties are identical to that of others. It is therefore they may be granted recommended the pay scale of Rs. 950—1500 pre-revised to meet the justice.

6. The claim is opposed by management by the written Statement (Exhibit-6). It is averred that it is well settled position that the pay commission are appointed to fix the pay scales and the judicial authorities should not interfere the same. It is submitted that the union should have agitated the issues before the Pay Commissions for getting the pay scales as claimed for. It is averred that the management have given the pay scales to the firemen as granted by the pay commissions. It is submitted that the union had not shown how their nature is identical with that of BARC and other organisations for getting the higher scale. It is averred that under such circumstances the claim which is made by the union is without any merit and it deserves to be rejected.

7. The union filed a Rejoinder at Ex-8. It is averred that the Secretary of the Fifth Pay Commission had informed by its letter dtd. 6-1-96 that it will not reopen the past cases making references to recommendations with respect of rectification of the anomalies. It is submitted that the union had also taken this anomalies before the anomaly committee but the results are not known.

8. The issues and my findings there on are as follows:—

Issues	Findings
1. Whether the action of the management of Telecom Factory Deonar in not fixing the scale of pay of Firemen as Rs. 950—1500 is legal and justified ?	Yes.
2. If not, what relief the concerned workmen are entitled to ?	Does not survive.

REASONS

9. Mahadeo Shinde (Exhibit-12) affirmed as per his Statement of Claim. In the cross examination he admits that he is classified as Group ‘B’ in the factory. After the Fourth Pay Commission his scale was revised to 750—940 and by Fifth Pay Commission it is revised to 2550—3200. He accepts that there is no post of fireman category in Group ‘D’ at BARC. If this is so it is failed to understand that how this category can

be compared to the category of firemen at BARC. He affirmed that he had produced documents to show that the nature of work carried out like persons like him in BARC and other institute is one and the same but there is no such document on the record. He accepts that he was given the appointment in Group 'D' and the pay scale was informed to him. He accepted it. I therefore find that now the point which is raised by him is without any merit.

10. Shinde tried to explain that there are two employment exchanges. One is for the general category which is situated at Grant Road and another employment exchange is at Ghatkopar which is for skilled category. He acquired the employment through Ghatkopar employment exchange. Therefore, he wanted to establish that he is a skilled worker and the pay scale which is granted to him is incorrect. I am not inclined to accept this. It is because when he accepted the job in Group 'D' post the pay scale was shown to him. Now he agitated that issued after lapse of these years. For the sake of argument even if it is said that he is selected from Ghatkopar Employment Exchange he was given a particular scale at that time only. At that moment itself he should have agitated that point.

11. In State of UP and Ors. Vs. J. P. Chaurasia 1989 Supreme Court cases (L & S) 71 Their Lordship observed that :

"Parity in employment... Factors justifying differentiation... depends on evaluation of duties and responsibilities... Besides quantity, quality also material... courts not suited to evaluate and compare on the basis of affidavits and pleadings... Matter should be left to the executive who should appoint an expert body for the purpose. Courts should respect such determination unless mala fides shown". Relying on the ratio in the above said authority it is to be said that this Tribunal should not decide the pay scale as claimed by the union.

12. For the above said reasons I do not find any merit in the case of the union. I record my findings on the issues accordingly and pass the following order.

ORDER

The action of the management of Telecom Factory in not fixing the scale of pay of Firemen as Rs. 950—1500 is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 1) की धारा 17 के अन्वय में, केन्द्रीय सरकार टेलीकॉम के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुंबई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-7-99 को प्राप्त हुआ था।

[सं. एम-40011/21/93-आई. आर. (डी यू)]

टी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workmen, which was received by the Central Government on 5-7-99.

[No. L-40011/21/93-IR(DU)]

B. M. DAVID, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT:

Shri S. B. Panse Presiding Officer.

Reference No. CGIT-2/125 of 1998

Employers in relation to the management of Telecom.

AND THEIR WORKMEN

APPEARANCES:

For the Employer—Mr. S. B. Kadam Representative.

For the workmen—Mr. R. M. Oke Representative.
Mumbai, Dated 15th June, 1999

AWARD

The Government of India, Ministry of Labour by its Order No. L-40011/21/93-IR(DU) dated 15-9-98, had referred the following Industrial Dispute for adjudication

"Whether the action of the management of Telecom Factory Deonar in not fixing the scale of pay of sanitary Inspectors as Rs. 1400-2300 if legal and justified?" If not, to what relief the concerned workmen is entitled to?"

2. The General Secretary, Telephone Workers Union filed a statement of claim at Exhibit-5. It is averred that Sanitary Inspector was appointed by the employer on 1-1-83 with a pay scale of Rs. 330-560. While implementing the CCS(RP) rules 1986 the pay scale was shown as 1200-2040 whereas the counter part in the yard has been granted the pay scale of Rs. 1400—2300. They were at same identical pay scale prior to 1-1-86 i.e. implementation of CCS (RP) rules 1986.

3. The union pleaded that the nature of work and duties of sanitary inspector is of a supervisory nature. He is to look after the work carried out by others and to keep good and clean sanitary conditions of the factory premises. He is also required to look cleanliness in hazardous shops like factory building, welding, painting, check discharge of chemicals through drainage. The educational qualifications required for the post is matriculation and diploma in sanitary.

4. Even in the BARC the post of supervisory (cosmetic maintenance) has been reclassified as technical and has been granted the pay scale of Rs. 1400-2300.

The Airport authorities granted pay scale to Sanitary Inspector is Rs. 1400—2300.

5. The Government of India has issued notification dtd. 13-9-86 to S. R. No. 1080(E). The CCS(RD) rules 1986 and vide part-A of First Schedule at serial No. 11 the pay scale of Rs. 330—560 has been replaced by Rs. 1200—2040 but for the technical supervisors have been granted the pay scale of Rs. 1400—2300. It is averred that the incumbent in this reference is a technical supervisor.

6. The Fifth Pay Commission classified post of Insect Inspector and Sanitary Inspector were merged in the three grades and granted pay scale as 'sanitary Inspector' grade III Rs. 1320—2040 Sanitary Inspector Grade II Rs. 1400—2300. Sanitary Inspector Gr. I Rs. 1600—2600.

7. From the above said circumstances it is prayed that the pay scale of Rs. 1400/2300 to the Sanitary Inspector working in the Telecom Factory, Mumbai may be granted.

8. The management resisted the claim by the written statement (Exhibit-5). It is averred that the fixation of pay scale is a job of pay commissions and not of the Tribunal. It is averred that instead of agitating the issue before the Fifth Pay Commission the Union is agitating. The same before this Tribunal which should not be considered. It is averred that the department had no malafides by fixing the scale. Under such circumstances the fixation which is carried out by the department and the payments made thereunder cannot be said to be illegal or improper. The management denied all other contentions taken by the union in the statement of claim.

9. The management averred that the Fifth Pay Commission had submitted its report which is accepted by the Government and accordingly the sanitary Inspectors are put in revised scales and the payments are made w.e.f. 1-1-96. It is therefore submitted that the union had no case and the reference may be answered accordingly.

10. The issues that fell for my consideration and it is averred that the Fifth Pay Commission by its letter dated 17-1-96 has clearly intimated that the Pay Commission has no intention to reopen past cases or for making reference to recommendation with respect to rectification of the anomalies. The same stand was taken by the employer before the High Court. As the workman could not get any relief he had no way but to seek the legal remedies.

11. The issues that fell for my consideration and my findings thereon are as follows :—

Issues	Findings
1. Whether the action of the management of Telecom Factory Deonar in not fixing the scale of pay of Sanitary Inspectors as Rs. 1400-2300 is legal and justified ?	Yes.
2. If not, what relief the concerned workmen are entitled to ?	Does not survive

REASONS

12. Ajit Bhojne (Exhibit--12) affirms as per the statement of Claim. He admits that initially his pay scale was Rs. 330—560. After the recommendation of the Fourth Pay Commission the scale was increased to Rs. 1200—2040. The Fifth Pay

Commission had given the grade of Rs. 4000—6000 to their scale. The department gave the same pay scale to them and the payments were made.

13. He affirmed the nature of duties which are performed by them and that of B.A.R.C. are the same. But in the cross examination he states that he had not produced any documents to show that the nature of duties performed by supervisors cosmetic maintenance in BARC and their work as a sanitary inspector are identical. No other oral evidence is before the Tribunal to prove the identical nature of duties between the two. Therefore it can be said that the action of the management is perfectly proper.

14. In State of U.P. & Ors. Vs. J. P. Chaurasia 1989 Supreme Court cases (L & S) 71. Their Lordships observed that :

"parity in employment Factors justifying differentiation . . . depends on evaluation of duties and responsibilities. . . Besides quantity, quality also material. . . courts not suited to evaluate and compare on the basis of affidavits and pleadings. Matter should be left to the executive who should appoint an expert body for the purpose. . . courts should respect such determination unless malafides shown."

Relying on the ratio in the abovesaid authority it is to be said that this Tribunal should not decide the pay scales as claimed by the union.

15. The union filed a letter dt. 17-1-98 (Exhibit-91) addressed by the Secretary of the Fifth Pay Commission which states that what is their scope and they will not go into the past anomalies or making any recommendation with respect of rectification of anomalies with retrospective effect. That does not mean that the Pay Commission was not considering the nature of the duties by these Sanitary Inspector and comparing them with other Sanitary Inspectors while fixing the pay scales.

16. In the cross-examination Ajit Bhojne affirms that this case is based on the Fifth Pay Commission's recommendations paragraph 69.70. In the written argument also they have referred to this para but now here it is mentioned how it is relevant for them. On the contrary in the cross examination he categorically stated that the Fifth Pay Commission had given them scale of Rs. 4000—6000 and accordingly the payment was granted. Under such circumstances I do not find any merit in the case of the union. In the result I record my findings on the issues accordingly and pass the following order :—

ORDER

The action of the management of Telecom Factory Deonar in not fixing the scale of pay of Sanitary Inspector as Rs. 1400—2300 is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 7 जुलाई, 1999

का. आ. 2191.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री एन्टो विक्टोरिया बोट मालिक के

प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अग्रि-करण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-44012/3/95-आई. आर. (विधि)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Shri Anto Victoria Boat Owner, and their workman, which was received by the Central Government on 07-07-1999.

[No. L-44012/03/95-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, CHENNAI

Wednesday, the 28th day of April, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal.

Industrial Dispute No. 75 of 1995

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I.D. Act, 1947 between the workman and the Management of Shri Anto Victoria, Boat Owner, Tuticorin.)

BETWEEN

Shri G. Jesiah Villavarayar,
S/o Gabriel Villavarayar,
397/11B, Lions Town, 4th Street,
Tuticorin-628001.

AND

Shri Anto Victoria,
S/o Viswam Victoria,
42, Grahope Street,
Tuticorin-628001.

REFERENCE :

Order No. L-44012/3/95-IR (Misc.), Ministry of Labour, dated 16-11-95, Government of India, New Delhi.

This dispute coming on for final hearing on Monday, the 12th day of April, 1999 upon perusing the reference, claim, counter statement and all other material papers on record, upon hearing the arguments of Thiru V. Krishnamoorthy, Advocate appearing for the workman and of Thiru K. Govindarajan and N. Rajendran, Advocates appearing for the respondent-management, and this dispute having stood over till this day for consideration this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue :

"Whether the action of the management of Shri Anto Victoria, Boat Owner in terminating the services of Shri G. Jesiah Villavarayar Tindal w.e.f. 16-6-94 is justified? If not, to what relief the concerned workman is entitled to?"

2. The main averments found in the claim statement filed by the petitioner are as follows :
2146 GI/99-15

The petitioner is a workman employed as a Tindal by the respondent's mother from 3-1-75, in boat No. TTN 43. After 3 years, because of the age and ill-health, the respondent's mother transferred the boat to her son the respondent. From the date of transfer till the date of termination i.e. 16-6-94, the petitioner worked under the respondent. The petitioner sent telex messages to the Principal Officer, MMD through the Secretary, National Boatmen Union, Tuticorin on various dates viz., 13-6-94, 15-6-94, 16-6-94, and 17-6-94. The Secretary of the Unions also sent letters to the Survey or Incharge, MMD Tuticorin on 10-6-94. For the letter dated 10-6-94, the respondent has sent a reply on 11-6-94 admitting non-settlement of dues to the petitioner and has assured to settle provided the petitioner furnished list of arrears. The General Secretary, Coastal Sail Vessel Owners' Association has also given the same assurance in his letter dated 11-6-94. Since the accounts were not settled, the Union sent communication to the Ministry for Surface Transport on 25-6-94. The Director General of Shipping, Bombay had also assured in his intimation and telex message to the Secretary of the Union that the dues will be paid on submission of accounts by the petitioner. The petitioner has personally submitted the accounts to the respondent and his mother but his efforts were in vain. On 11-7-94, the petitioner gave notice through his counsel to the respondent alongwith the xerox copy of the arrears list due to the petitioner from respondent and his mother. The respondent's mother replied to the said notice that it is a false information. The respondent has to settle his dues to the tune of Rs. 1,00,906 and has not provided the petitioner with any employment in spite of several requests. In his notice the petitioner also claimed 3 months salary of Rs. 15,000 since he was denied employment without giving any prior notice. The respondent has not issued any charge memo and no enquiry was conducted against the petitioner. The petitioner was not paid any notice pay and compensation and the termination is illegal and contra to the provisions of Section 25F of the I.D. Act, 1947. The petitioner prays to pass an award to reinstate the petitioner in service with back wages and all other attendant benefits.

3. The main averments found in the counter statement filed by the respondent are as follows :

The petitioner's claim is barred by limitation and the same is liable to be dismissed for non-joinder of proper parties. Originally the Vessel No. TTN 43 belonged to Amalorpavammal. She sold the vehicle to the respondent by a sale deed dated 23-8-89 for a valuable consideration. The allegation that the mother of the respondent because of her age and ill-health transferred the boat to the respondent is not correct. At the time of sale of the boat, the amounts lawfully payable to the Tindal and other employees were settled and not even a pie remained unpaid. Hence the averment that the transfer was effected on the condition that the respondent should settle the account are no correct and are baseless. Neither the respondent nor his mother are liable to pay any amount to the petitioner. The petitioner during his tenure as Tindal had received the amounts every year after settlement of account in the usual manner. The petitioner while he was on duty caused great loss to the respondent by his wilful acts of commission and omission. The petitioner violated the rules and regulations of the Customs Department of the Government. There were several complaints against him and the respondent received many complaints about the petitioner. The petitioner was about to be caught for various offences he had committed and the petitioner left the service on 15-6-94, and there was a balance of Rs. 1,256.44. It was declared and accepted that there was no other arrears. In order to blackmail and extract more money from the petitioner, he has sent false petitions to some officers. The officers who made enquiries found the contentions of the petitioner to be false and unfounded and rejected all his petitions. At that time, when the name of the Tindal was to be changed, by Mercantile Marine Department, the petitioner had sent a petition to the Officer of the said department containing some arrears which were to be paid. The officers of the said department have met him and made enquiries and it was found that there was no arrears. The petitioner accepted and acknowledged these facts. The petitioner has given a copy of account statement to this authority, which is a self-serving document. The

entries found therein are false and imaginary. The accounts books are not produced by the petitioner. Every year a list is prepared to settle the accounts between the Tindal and the owner. Therefore, the question of arrears does not arise. It is totally false to say that the respondent is liable to pay Rs. 15,000 being 3 months salary and other amounts to the petitioner. The petitioner has fraudulently fabricated accounts which was brought into existence for the purpose of the case. All the entries in the accounts are false and baseless. In order to hide and conceal his illegal activities for which actions are legally to be taken, the petitioner has unnecessarily filed the application. The respondent understands that the petitioner involved himself in anti-national activities and he was suspected to be aiding certain anti-national elements. The respondent also learnt that the petitioner was kept in lock-up in Sri Lanka for some time. The petitioner illegally accepted commission from some people for which he is not entitled to do. He is bound to return the commissions received by him by way of commission. The respondent has appointed a watchman to look after their boats and there was no necessity for the petitioner to assume the role of a watchman. The respondent prays to dismiss the petition.

4. The petitioner was examined as WW1 and Ex. W-1 to W-11 have been marked. On behalf of the respondent, the brother of the respondent was examined as MW1 and no document was marked on behalf of the respondent.

5. The Point for consideration is : Whether the action of the management of Shri Anto Victoria, Boat Owner, in terminating the services of Shri G. Jesiah Villavarayar, Tindal w.e.f. 16-6-1994 is justified ? If not, to what relief the concerned workman is entitled ?

6. The Point.—The petitioner Thiru G. Jesiah Villavarayar was employed as a Tindal by the respondent's mother from 3-1-75 in Boat No. TTN 43. Three years later she transferred the boat to her son, the respondent herein and from the date of transfer till the date of discharge, i.e. 16-6-94, the petitioner worked under the respondent. According to the respondent, the petitioner was involved in certain Anti National Activities and was also arrested and remanded in Sri Lanka and with great efforts through the agent of the respondent, he was released. According to the respondent due to his involvement in the anti-national activities, the petitioner was changed and a new tindal was appointed with the permission of Surveyor Incharge, MMD, Tuticorin. On 10-6-94, the National Boatmen Union has sent Ex. W-1 letter to Surveyor Incharge, of Mercantile Marine Department, Tuticorin complaining discharge of the petitioner without settling his dues and requested not to allow the change of tindal. On 11-6-94, the Coastal Sail Vessel Owners Association of Tuticorin has sent Ex. W-2 letter to the Surveyor Incharge, MMD, Tuticorin, informing that the respondent would settle the appropriate dues as per the list of the tindal and that the petitioner has not produced the list so far. The same day, the respondent has sent Ex. W-3 letter stating that due to unavoidable circumstances he has changed the tindal of his vessel the petitioner herein and arranged another person in his place w.e.f. 11-6-94 and regarding settlement to the petitioner, he has requested him to produce the list on 7-6-94 and that he is awaiting the same and that as soon as it is produced, he will settle his arrears. On 13-6-94, the National Boatmen Union has sent Ex. W-4 letter to the Surveyor Incharge, Mercantile Marine Department, Tuticorin stating that they cannot understand what is unavoidable circumstances that made the owner to change the tindal, and has also mentioned that the list of the tindal is nearing completion and he will present the same to the owner and to the Surveyor Incharge, the next day. Again the same union has sent Ex. W-5 letter on 18-6-94 complaining about the non-settlement of the dues of the Tindal and that the Surveyor Incharge has discharged the tindal on basis of the telex message received from Principal Officer, MMD, Madras. The telegram message sent by the Secretary of the National Boatmen Union to MMD official at Bombay is Ex. W-6. On 13-6-94, the MMD official at Tuticorin has sent Ex. W-7 letter to the Secretary of the National Boatmen Union to take up the matter with Regional Office (Tuticorin) for settlement. The same day, the National Boatmen Union has sent Ex. W-8 letter to the Surveyor Incharge, MMD not to allow the change of the tindal on the vessel till the matter is settled, at the Regional Office.

On 14-6-94 the Regional Office, has advised the respondent and the General Secretary of the petitioner union and also Coastal Sail Vessel Owners Association to take up the matter for disposal by the Surveyor Incharge, of MMD, Tuticorin. The list containing the accounts and dues to the petitioner is Ex. W-10. The lawyer's notice issued to the respondent and his mother is Ex. W-11 wherein the petitioner has claimed Rs. 1,00,906.44 being dues from the respondent to the petitioner and also Rs. 15,000 being 3 months wages from the respondent. The reply notice sent on behalf of the respondent is Ex. W-12 wherein the respondent has contended that the accounts were settled in the presence of MMD officials and that he has admitted that only Rs. 1256.44, alone is due from the respondent and that the respondent is not entitled for 3 months of wages of Rs. 15,000.

A perusal of letter correspondence Exs. W-1 to W-9 between the petitioner, National Boatmen Union, Coastal Sail Vessel Owners Association and Surveyor Incharge of the Mercantile Marine Department, would show that the main interest of the petitioner was in settling certain dues to him from the respondent and not future employment under the respondent even though his discharge has been objected without payment of dues to him. The petitioner has produced Ex. W-10 list wherein he has claimed certain dues from the respondent as follows :

1. When the Vessel of the respondent was not sailing and was under repair in 1975, the petitioner has claimed daily wages of Rs. 25 per day and thus Rs. 750 per month for another vessel No. 199 for keeping watch of the vessel.
2. 6 months salary for keeping works on boat No 43 in the same year.
3. 8 months salary at the rate of Rs. 35 per day for the same purpose.
4. For keeping the vessel for 10 months, when the vessel was not sailing at the rate of Rs. 1200 for 10 months.
5. For charges of purchase of some articles at Ceylon for the house of the respondent for 17 years.
6. At the rate of Rs. 150 per trip for 25 trips being the tips payable from the share of the lascar.

All the above claims are neither proved by any document nor by evidence and above all these claims are of a civil nature which are already time barred.

8. The contention of the petitioner is that he was employed for a monthly salary of Rs. 5,000 and has claimed Rs. 15,000 as 3 months notice pay on the date of his discharge. Ex. W-10 is the list of transactions between the petitioner and the respondent does not contain even single entry regarding monthly salary of Rs. 5,000. Except Ex. W-11 the lawyer's notice issued on behalf of the petitioner in none other documents the petitioner has claimed that he was paid Rs. 5,000 as monthly salary. On the other hand, the respondent's witness RW1 has categorically stated that in all the boats the income from the boat is shared by the owner of boat and the tindal and the crew as 2/3rd to the owner and 1/3rd to the tindal and the crew. Even though the petitioner has denied this suggestion while he was cross-examined his own accounts Ex. W-10 would show that 2/3rd of the income of the boat is payable to the owner. At page 20 of the type set in Ex. W-10, he has specifically mentioned that from the entire accounts 2/3rd share belonging to the owner of the boat is Rs. 8,87,774.56. It is the practice in the region that the Tindal and the crew are paid 1/3rd share from the total income of the boat in which they are employed. The same custom is confirmed by the entry found in Ex. W-10. Therefore, the contention and claim of the petitioner that he was paid Rs. 5,000 as monthly salary and he should be paid 3 months notice pay of Rs. 15,000 is false and untenable. In Exs. W-1 to W-9, and paras 2, 5, 6, 8, 9, 10 and 12 of the claim statement, the petitioner has only claimed to settle his dues as per the list to be submitted by the petitioner himself. Even in Ex. W-8 letter dated 13-6-94, the National Boatmen's Union has requested the Surveyor Incharge, Mercantile Marine Department not to allow change of tindal till the dues are settled by the owner of the boat.

During cross-examination, the petitioner has categorically admitted that every year he will receive all the dues through his employer and that for the year 1994, the respondent should pay Rs. 1256 to the petitioner as per his accounts and that in 1975 he has paid a deposit of Rs. 10,000 which was not returned to the petitioner. In his own accounts Ex. W-10, at page 20, he has mentioned that the respondent, owner of the boat should pay him Rs. 1256.44. In Ex. W-12, reply notice sent on behalf of the respondent, it is specifically mentioned that on 15-6-94, in the presence of officers of the Mercantile Marine Department, the petitioner admitted that the respondent herein has to pay Rs. 1256.44 and there are no other dues. It was also signed in the presence of the said officer. It is further mentioned in the reply notice that the MMD officer enquired into the complaint of the petitioner and decided that the respondent has to pay Rs. 1256.44 only and thereafter removed the name of the petitioner as far as the respondent's boat was concerned.

9. A perusal of the claim statement and evidence let in on behalf of the petitioner would clearly show that the petitioner was interested only in recovering some alleged dues which are all time barred and this Court has no jurisdiction to enquire into or pass any orders with regard to monetary transactions between the petitioner and the respondent. The petitioner who is interested in claiming certain dues alleged to be due to him has approached this forum instead of going to a Civil Court where all the claims of the petitioner would be dismissed as time barred and also to avoid payment of Court fees.

10. The procedure for appointing and discharging tindal seems to be subject to the approval of the officers of the Mercantile Marine Department and change of tindal can be made subject to the approval of the said officer. Ex. W-1 to W-9 would also show that the MMD authorities have power to interfere, enquire and settle the disputes between the owner of the boat and his crew. Excepting the prayer portion, in the claim statement nowhere else the petitioner has claimed for reinstatement in service. The respondent witness has mentioned that the petitioner was indulging in anti national activities and he was arrested by the Government of Sri Lanka and detained at Colombo and only at the intervention of the respondent through his agent he was released. The above said reason is not mentioned in Ex. W-3 letter of the respondent dated 11-6-94 but it is mentioned that the tindal of the vessel is changed due to unavoidable causes. In Ex. W-9 letter of the office of the Regional Office, Tuticorin region of the Ministry of Surface Transport, Directorate General of Shipping, it is mentioned that engagement and discharge and other connected matters pertaining to sailing vessels is being done by the Surveyor Incharge, Mercantile Marine Department, Tuticorin. It is admitted case of the petitioner that the tindal was changed with the permission of the Surveyor Incharge of the Mercantile Marine Department, Tuticorin. The Surveyor Incharge of Mercantile Marine Department, Tuticorin will not grant permission to change a tindal unless there are sufficient reasons. The respondent has not produced documents like detention order of the petitioner at Sri Lanka and other enquiries about him. But however the fact remains that the petitioner has been changed only with the permission of Surveyor Incharge of the Mercantile Marine Department, Tuticorin. In these circumstances, it cannot be said that the petitioner was discharged.

11. Further the petitioner cannot be considered as a workman under Sec. 2(s) of the I.D. Act, 1947 since according to his own contention his monthly salary is Rs. 5,000/- and the nature of his work is supervisory work of the crew of the boat. Therefore, the petitioner cannot be said as a workman as defined u/s. 2(s)(iv) of the I.D. Act, 1947. When the petitioner is not a workman as defined by the Act, Chapter V of the I.D. Act, 1947, i.e. Sec. 25(f) of the I.D. Act, 1947 is not applicable, to the petitioner. For the above reasons, the claim petition is dismissed.

In the result award passed dismissing the claim of the petitioner. No costs.

Dated, this the 28th day of April, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal

WITNESSES EXAMINED

For Petitioner-workman :

W.W. 1 : Thiru Jesiah Villavarayar,

For Respondent-management :

M.W. : Th. Antony Raj Victoria

DOCUMENT MARKED

For Petitioner-workman :

Ex. W-1/10-6-94 : Letter on behalf of the petitioner to the Mercantile Marine Dept., (xerox).

W-2/11-6-94 : Letter from Coastal Sail Vessel Owners Association (xerox).

W-3/11-6-94 : Letter from the respondent to the petitioner (xerox).

W-4/13-5-94 : Letter from National Boatmen's Union to Mercantile Marine Department (xerox).

W-5/18-6-94 : -do-

W-6/13-6-94 : Telex from the Boatmen's union to the respondent (xerox).

W-7/13-6-94 : Letter from Mercantile Marine Dept., to the Boatmen's union (xerox).

W-8/13-6-94 : Letter from National Boatmen's Union to the Mercantile Marine Department (xerox).

W-9/14-6-94 : Letter from Mercantile Marine Dept., to the respondent (xerox).

W-10/11-7-94 : Notice issued by the petitioner's counsel to the respondent (xerox).

W-11/2-8-94 : Reply to the notice by the respondent's counsel (xerox).

For Respondent-management : None.

नई दिल्ली, 7 जुलाई, 1999

का. आ. 2192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिहार राज्य मिनरल डेवलपमेंट कॉर्पोरेशन के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के विवाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[स. एल-28011/2/89-आई. आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 07th July, 1999

S.O. 2192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bihar State Mineral Development Corporation and their workman, which was received by the Central Government on the 07-07-1999.

[No. L-28011/2/89-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

Reference No. 24 of 1989

PARTIES :

Employers in relation to the management of
Messrs. Bihar State Mineral Development
Corporation, Ranchi and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar INDUSTRY : Mica.

Dated. Dhanbad, the 30th June, 1999

AWARD

The Government of India, Ministry of Labour,
in exercise of the powers conferred on them under
Section 10(1)(d) of the I.D. Act, 1947 has referred
the following dispute to this Tribunal for adjudica-
tion vide their Order No. L-28011/2/89-I.R. (Misc.)
dated, the 16th November, 1989.

SCHEDULE

"Whether the following demands raised by the
Mica Workers Union, Dhanbad on the
management of Bihar State Mineral
Development Corporation Ltd., Ranchi
in respect of their Sapahi Mica Mines,
Jhumritelaiya are justified. If so, what
relief are the workmen concerned entitled
to?"

Demand No. 1—Payment of underground
allowance to all under-
ground workers.

Demand No. 2—Payment of Conveyance
allowance to all workmen.

Demand No. 3—Regularisation of the follow-
ing 12 workmen as perma-
nent workers.

1. Sri Suresh Yadav : Dhari
2. Sri Narayan Yadav : Dhari
3. Sri Munshi Yadav : Dhari
4. Sri Rajkumar Yadav : Dhari

5. Sri Chhatu Yadav : Dhari
6. Sri Kailash Yadav : Dhari
7. Sri No. 1 Chhatu Yadav : Dhari
8. Sri Ghanshyam Yadav : Dhari
9. Sri Karu Ram Yadav : Dhari
10. Sri Ram Pravesh Singh : Dhari
11. Sri Surendra Yadav : Electrician
12. Sri Ram Bilash Yadav : Watchman.

2. In this reference only the workman side
appeared and filed its W.S. Thereafter both the
parties abstained from taking any steps leading to
an inference of non-existence of any industrial dis-
pute between the parties. The reference is pending
since 1989 and it is of no use to drag the same year
after year for taking steps by the parties. Under such
circumstances, a 'No dispute' Award is being ren-
dered and the reference is disposed of on 'No
dispute' Award basis on the presumption of non-
existence of any industrial dispute between the
parties, presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 7 जुलाई, 1999

का. आ. 2193.—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार स. जयपुर सिलिका सप्लाय कम्पनी के
प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच,
अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार
औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है,
जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-29012/74/97-आई. आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2193.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the
Central Government hereby publishes the Award
of the Central Government Industrial Tribunal-
cum-Labour Court, Jaipur (Rajasthan) as shown
in the Annexure, in the industrial dispute between
the employers in relation to the management of
M/s. Jaipur Silica Supply Co., and their workmen,
which has received by the Central Government on
7-7-1999.

[No. L-29012/74/97-IR(M)]

B. M. DAVID, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

केस नं. : सी. आई. टी./बी-42/97

विज्ञप्ति संख्या : एल-29012/74/97-आई.आर. (एम)

श्री नारायण राम,

जरिए श्री आर. सी. जैन,

80, बजरग विहार, गोपालपुरा

रेलवे फाटक के पास, टोक रोड,

जयपुर ।

बनाम

मै. जयपुर सिलिका सप्लाई कम्पनी,

151, जौहरी बाजार, जयपुर ।

उपस्थित :— प्रार्थी की ओर से ———कोई नहीं ।

मै. जयपुर सिलिका सप्लाई

कम्पनी की ओर से ———श्री हरिमोहन
खड्डे लवाल

पंचाट तारीख : 21-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए
निम्न विवाद इस अधिकरण को न्याय निर्णय हेतु निर्देशित
किया गया है :—

“Whether the workman Shri Narayan Ram,
S/o Shri Jagannath Ram, Driver is
entitled for employment after 5-7-96 with
the management of M/s. Jaipur Silica
Supply Co., Jaipur? If not, to what relief
the workman is entitled to and from what
date?”

पक्षकारों को नोटिस जारी किए गए । श्रमिक नारायण
राम जरिए श्री आर. सी. जैन व 1 दजुद रजिस्टर्ड तामील
नोटिस के उपस्थित नहीं हुआ या और न ही कोई क्लेम पेश

किया, जिससे ऐसा प्रकट होता है कि उसे क्लेम फाईल करने
में कोई रुचि नहीं है । उक्त परिस्थितियों में विवाद रहित
पंचाट पारित किया जाता है । पंचाट की एक प्रतिलिपि
केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम 1947 की
धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए ।

ह०/-

पीठासीन अधिकारी

नई दिल्ली, 7 जुलाई, 1999

का. मा. 2194.—औद्योगिक विवाद अधिनियम,
1947 (1947 का 14) की धारा 17 के अनुसरण में,
केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबन्धतंत्र के संबद्ध
नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट
औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के
पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को
7-7-99 को प्राप्त हुआ था ।

[सं. एल-33012/03/97-आई.आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th July, 1999

S.O. 2194.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Cen-
tral Government hereby publishes the Award of the
Central Govt. Industrial Tribunal-cum-Labour Court
Chennai as shown in the Annexure, in the indus-
trial dispute between the employers in relation to the
management of Madras Port Trust, and their work-
men, which was received by the Central Government
on the 7-7-1999.

[No.L-33012/03/97/IR(M)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
CHENNAI

Monday, the 5th day of April, 1999.

Present :

Thiru S. ASHOK KUMAR, M.Sc.B.L.,

Industrial Tribunal

INDUSTRIAL DISPUTE No. 79 OF 1998

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 bet-
ween the workmen and the management of Madras Port Trust, Madras-1.)

Between

The workmen represented by
Dr. Ambedkar Madras Port Trust & Dock Labour Board
The General Secretary, AP 261, 11th East Cross Street,
M.K.B. Nagar, Chennai-600039.

And

The Chairman,
Madras Port Trust,
Rajaji Salai,
Madras-600 001.

REFERENCE : Order No. L-33012/3/97/IR(M), dated 4-5-1998

Ministry of Labour, Government of India,
New Delhi.

This dispute coming on this day for final disposal in the presence of Tvl. M.M. Shanmugam and S. Jayakumar, Advocates appearing for the management, upon perusing the reference and other connected papers on record and the workmen being absent, this Tribunal passed the following

AWARD

This reference has been made for adjudication of the following issue :

“Whether the action of management of Madras Port Trust in treating the days 12-8-96 as dies-non (No work no pay) and also deducting 8 days wages as penalty from the wages of Shri C. Chokkalingam and 62 others as shown in the list on the alleged ground that they went on strike on the above mentioned two days is justified or not? If not justified to what relief they are entitled?”

Payment in respect of the following employees of marine dept. has been deducted for ten days from the salary of August 96 paid on 1st September 96 :—

S. No.	Name	Designation	IBM No.	Vol. No.	No. of days	Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	C. Colkalingam	Syrang	10586		10	1886.00
2.	P. Venkatesan	H/L	10572	06/25	10	
3.	G. Bhaskaran	H/L	11159	06/25	10	
4.	E. Pencilliah	Syrang	10592	06/25	10	
5.	R. Ramalingam	H/L	10573	06/25	10	
6.	V. Perumal	D.S.	10253	06/29	10	
7.	K. Madurai	D.S.	10560	06/25	10	
8.	M. Munirathinam	M.L.	11180	06/29	10	
9.	P. Gnanaprakasam	L.402	11689	06/30	10	
10.	S. Vadivelu	L.462	11667	06/30	10	
11.	R. Damodaran	L.499	11771	06/30	10	
12.	V. Anandan	H.L.	11274	06/29	10	
13.	R. Jagadeesan	H.L.	11187	06/25	10	
14.	P. Chandran	L.236	11151	06/29	10	
15.	V. Arumugam	H.L.	10576	06/25	10	
16.	D. Raju	H.L.	10311	06/29	10	
17.	A. Jeevarathinam	H.L.	11265	06/29	10	
18.	P. Muthu	H.L.	11382	06/29	10	
19.	A. Jayaraman	H.L.	11308	06/29	10	
20.	K. Arunachalam	D.S.	10256	06/29	10	
21.	G. Vasu	H.L.	10597	06/29	10	
22.	C. Samuvel	H.L.	10583	06/25	10	
23.	G. Sivaprakasam	H.L.	11276	06/29	10	

(1)	(2)	(3)	(4)	(5)	(6)
24. C. Bhoopalan	L.322	10333	06/30	10	
25. R. Bhoobalan	H.L.	10361	06/29	10	
26. P. Kaviarasu	L.452	11655	06/30	10	
27. G. Kalappan	D.S.	10554	06/25	10	
28. A.T. Sathyanarayanan	D.S.	11257	06/29	10	
29. G. Dhanasekaran	L.494	11776	06/30	10	
30. C. Govindaswamy	D.S.	10922	06/29	10	
31. V. Kali	H.L.	10295	06/29	10	
32. C. Jaganathan	H.L.	11158	06/25	10	
33. D. Masilamani	H.L.	11303	06/29	10	
34. P. Sekar	L.490	11762	06/30	10	
35. S. Prabakaran	L.497	11769	06/30	10	
36. V. Sambandan	H.L.	11204	06/29	10	
37. J. Abdul Aziz	H.L.	11421	06/25	10	
38. A. Alexander	H.L.	10579	06/25	10	
39. V. Samarapuri	H.L.		06/25	10	
40. V. Vinobajee	H.L.	11311	06/25	10	
41. D. Marimuthu	H.L.	11380	06/25	10	
42. A. Zahir	L.02	11773	06/29	10	
43. R. Raju II	H.L.	10296	06/29	10	
44. B. Azhagiri Rajan	H.L.	11378	06/30	10	
45. R. Devadass	L.498	11770	06/30	10	
46. A. John Richard	L.04	11775	06/30	10	
47. R. Moses Mohanraj	L.495	11767	06/30	10	
48. S. Raja	L.471	11699	06/30	10	
49. C. Ravi	L.432	11623	06/30	10	
50. S. Anbu	L.439	11630	06/30	10	
51. P. Gnanaprakasam	L.438	11629	06/30	10	
52. R. Raji I	D/S	10290	06/29	10	
53. P. Kumar	D/S	10558	06/25	10	
54. M. Govindaswamy	D/S	11127	06/25	10	
55. K. Emaya Varman	D/S	11261	06/29	10	1862.62
56. P. Shanmugam	H/L	10577	06/25	10	1576.12
57. K.P. Radhakrishnan	H.L.	10584	06/25	10	1804.75
58. D. Raju	H.L.	10311	06/29	10	1556.77
59. M. Balakrishnan	D/S	10269	06/29	10	1004.75
60. P. Ramanujam	D.S.	10571	06/25	10	1556.77
61. S. Arunachalam	H.L.	11161	06/29	10	1824.11
62. M. Karunakaran	H.L.	11420	06/29	10	1671.12
63. D. Nelson	H.L.	11175	06/29	10	1743.22

Petitioner called absent. Claim statement not filed. Dismissed for default.

Dated, this 5th day of April, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal

नई दिल्ली, 13 जुलाई, 1999

AWARD

का. आ. 2195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, विशाखापटनम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-7-99 को प्राप्त हुआ था।

[सं. एल-45025/1/96-आई.आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th July, 1999

S.O. 2195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on 13-7-1999.

[No. L-45025/1/96-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Sri C. Sambasiva Rao, M.A., B.L.,
Chairman & Presiding Officer.

Wednesday, the 9th day of June, 1999

I.T.I.D. No. 10/97(C)

BETWEEN

The General Secretary,
Port & Dock Employees Association,
Visakhapatnam. . . . Workman

AND

The Chairman,
Visakhapatnam Port Trust.
Visakhapatnam.

This dispute coming on for final hearing before me by the Central Government under Notification No. L-45025/1/96-IR (Misc.) dtd. 2-5-1997, in the presence of Sri S. Rama Rao, Vice-President of Port and Dock Employees Association for workman and Sri P. Srinivasa Rao, Sr. Law Officer and Sri G.V.S.R.S. Prasada Rao, Asst. Law Officer, Visakhapatnam Port Trust for management, upon hearing the arguments of both sides and on perusing the entire material on record, the court passed the following :

(1) This is a reference made by Central Government referred to this Industrial Tribunal under Section 2A(1)(d) of the Industrial Disputes Act. The point as referred in this petition for award is :

“Whether the action of the management of M/s. Visakhapatnam Port Trust, Visakhapatnam in withholding one increment of Shri B. Nageswara Rao, C.S.M. (Office of Traffic Manger, Railways) for one year with cumulative effect is legal and justified? If not, to what relief the workman is entitled to?”

(2) The workman in this case was on shift duty from 00.00 hrs. to 8.00 hrs. on 4-10-90 on V.P.T. Loco No. 13. He was working as Chief Shunts Man (U.G.) in Railway Section of Traffic Department of the respondent management. The allegation of the respondent was that the workman did not observe the derailment of tank empty No. WR 42993 and brought the rake to RX point near AKP level crossing and while passing the derailed wagon got capsized at the RX point in route X line at 1.40 hrs., causing the next tank empty No. SE 95347 got derailed all wheels on 4-10-90 during the shift. The workman was attributed with the failure to perform his duties during the said shift on 4-10-90 and charged with his alleged carelessness and negligence in performing his duties. The workman denied the allegations and he gave explanation on 10-11-90. Not satisfied with that the management conducted a domestic enquiry in which the charges were proved. Based on that, the disciplinary authority issued show cause notice on 14-8-91 for which the workman submitted reply on 28-8-91. Finally he was issued punishment order on 10-9-91 imposing stoppage of increment for one year with cumulative effect. His appeal to the Chairman was also rejected.

The workman submitted that a guard was not provided in the particular shift as per rules. The Load Indicators are not provided on the engine, thereby, the driver on engine is not able to locate the defective running of the train. The vacuum breaks are not provided for full train and thereby the wagons were left with no control. A guard by name Sri C. P. Saidanna was provided to previous shift to the concerned employee by name Sri S. Rambabu and he was punished lightly. Earlier when loaded oil wagons were derailed and capsized, no punishment was awarded to any of the concerned staff even though the port sustained heavy losses. In fact, the sick wagon should not be placed in between the loaded wagons. Heavy punishment was imposed on the workman which runs throughout his career and affects him financially throughout his service. All other staff such as guard, driver are equally responsible for the derailment/capsize. The enquiry conducted by the enquiry is not as per the

principles of natural justice. According to workman, the derailment is the third derailment within a span of 15 days at the particular spot. So he is not solely responsible for the same. Hence he prayed the court to grant the relief as prayed for.

(3) It is opposed by the management by filing a rejoinder and stating that the workman was issued notice with a major penalty charge sheet dated 6-11-90 for his carelessness and negligence in performing his duties during the shift on 4-10-90 and he noticed the derailment of tank empty WR 42993 earlier during the shift on 4-10-90, the capsized of the said wagon as well as derailment of another tank empty No. SE 95374 would have been avoided. The workman failed to perform his duties during his shift on 4-10-90 and he was charged for the same. "No gave reply to charge sheet on 6-11-90 and not satisfied with that the management conducted an enquiry on 13-12-90 duly nominating Sri K. Papa Rao, Asst. Traffic Manager as enquiry officer. He submitted a report on 9-7-91 on which the management proposed to impose punishment of reversion to next lower post. The workman submitted a representation on 28-8-91 to the show cause notice and the disciplinary authority after careful examination of his case took a lenient view and imposed the punishment of stoppage of increment for one year with cumulative effect on 10-9-91. Aggrieved by that the workman preferred an appeal to the Chairman but the punishment was confirmed by the chairman on perusing the entire record. Later he raised a dispute before the Asst. Labour Commissioner (Central) and it was ended with failure.

The management stated that it is the duty of the C.S.M./S.T.J.M. to ensure that when a train is running from one point to other in Port area, to see that it moves safely with the help of the staff under his control and warn the driver wherever necessary. Guard is not provided for all lococ working on port railway system. It denied the lococ are not provided with load indicators. All trains in port area are running as shunted movements with partial vacuum, and not vacuum for 5 or 6 wagons next to engine only is provided. This is only to assist the driver in controlling the train. It is submitted that it is not correct to state that the staff were not punished in earlier derailments of oil tanks. The damage caused only due to derailment which is the result in negligence on the part of the workman. Hence it is stated the action taken by the disciplinary authority is fully justified.

(5) A memo was filed not questioning the validity of domestic enquiry. Court heard both sides.

(6) The point for consideration is :

Whether the punishment imposed is disproportionate to the negligence in duty of the workman and it requires any modification ?

(7) Only this point is formulated for consideration as legality and justification is not disputed in the course of arguments. Considering that there is no loss of life or serious loss and considering earlier conduct on the part of the workman, inspite of let off warning, increment for one year with cumulative effect, it is submitted on behalf of the worker as penalizing. On a perusal of entire documentary evidence on record it is not shown that the workman has got any bad record and no enquiry or disciplinary action is taken against him earlier. But the fact remains that he was negligent in not taking adequate precautions in discharge of his duties causing loss to the management. The point is negligence in discharging his duties. Obviously the authority while passing a final order, considering this aspect, even though higher punishment is recommended to be imposed, indicated in the show cause notice, lesser punishment is imposed after due consideration. From the submissions made in this court, the tribunal is of the opinion, that the ends of justice would be met by modifying the order of punishment to the effect, that instead of cumulative effect, the increment of one year shall be cut without cumulative effect. In so far as the point for consideration and the legality on the order of punishment concerned there is no justifiable reasons to come to the conclusion that there is no illegality or any infirmity in the findings given by the enquiry officer and also in considering his representation by the authority passed which passed orders in taking action by imposing punishment of stoppage of one increment with cumulative effect but which punishment order is modified by stoppage of one increment without cumulative effect which would meet the ends of justice. Accordingly the reference is answered.

Dictated to steno transcribed by her given under my hand and seal of the court this the 9th day of June, 1999.

SRI C. SAMBASIVA, Presiding Officer
Appendix of evidence in I.T.L.D. No. 10/97(C)

WITNESSES EXAMINED :

For Workman : None.

For Management : None.

DOCUMENTS MARKED :

For Workman : Nil.

For Management : Nil.

नई दिल्ली, 6 जुलाई, 1999

का. आ. 2196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैमर्स ई. सी. एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

सं. 1, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एन-20012/(115)/88-डी-IV (ए)
आई.आर. (सी-1)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 6th July, 1999

S.O. 2196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 6-7-1999.

[No. L-20012/(115)/88-D-IV(A)IR(C-I)]
S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)
(d) (2A) of the Industrial Disputes Act, 1947.

Reference No. 79 of 1989

Employers in relation to the management of
Mandman Colliery of M/s. E.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. Prasad, Presiding Officer.

APPEARANCES :

For the Employers : None.

For the Workmen : Shri D. Mukherjee,
Advocate.

STATE : Bihar

INDUSTRY : Coal

Dated, the 28th June, 1999

AWARD

By Order No. L-20012(115)/88-D-IV(A)-I.R. (Coal-I) dated 14-6-1989 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Mandman Colliery of M/s. Eastern Coal-field Ltd. in not providing quarters to the active member of INMEWA Union

namely S/Shri Parmesh Mahato and others and threatening them for disciplinary action is justified? If not to what relief the concerned workmen are entitled?”

2. This reference case was fixed for adducing evidence by the management today (28-6-1999). Shri D. Mukherjee, Advocate, appearing on behalf of the workmen, submits that the concerned workmen are not interested to contest this dispute and hence he prays for passing a ‘no dispute’ award in this case.

3. In view of the prayer of Shri D. Mukherjee, Advocate, on behalf of the workmen. I render a ‘no dispute’ Award in this reference case.

S. PRASAD, Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2197 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी.सी.एल. के प्रबन्धत्व के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.-2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एन-20012/140/92-आई.आर. (सी-1)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman, which was received by the Central Government on 7-7-1999.

[No. L-20012/(140)/92-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT

DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 44 of 1993

PARTIES :

Employers in relation to the management of Moonidih Area of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : None.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 28th June, 1999

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012|(140)|92-I.R. (Coal-I), dated, the 30-4-93|10-5-93.

SCHEDULE

"Whether the action of the management of Moonidih Colliery of M/s. Bharat Coking Coal Ltd. Moonidih Area, P.O. Moonidih, Dist. Dhanbad in not accepting the date of birth of Shri Mantu Kurmi recorded in Form 'B' Register of Kustore Colliery of M/s. BCCL as 30 years as on 1-2-1969 is justified? If not, to what relief the workman is entitled?"

2. In this reference none of the parties appeared before this Tribunal nor took any steps inspite of the issuance of notices to them again and again leading to an inference of non-existence of any industrial dispute between the parties. The reference is pending since 1993 and it is of no use to drag the same any more. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.प्र. 2198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रसूचन में, केन्द्रीय सरकार मैसर्स ई. सी. एल. के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-20012/164/92-आई.आर. (सी I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 7-7-1999.

[No. L-20012|164|92-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 77 of 1993

PARTIES :

Employers in relation to the management of S. P. Mines of M/s. E.C. Ltd. and their workman.

APPEARANCES :

On behalf of the workman : None.

On behalf of the employers : None.

STATE : Bihar

INDUSTRY : Coal

Dated, Dhanbad, the 28th June, 1999

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012|164|92-I.R. (Coal-I), dated, the 28th May, 1993.

SCHEDULE

"Whether the action of the management, S.P. Mines of M/s. Eastern Coalfields Ltd., P.O. Chitra, Dist. Deogarh in recording the date of birth of the workman, Thulu Tudu as 1940 years and later on changing 1930 years in fair, just and legal? If not, to what relief the concerned workman is entitled?"

2. In this reference both the parties appeared and filed their respective W.S. Subsequently both

the parties abstained from appearing before this Tribunal and taking any steps inspite of the issuance of notices to them again and again leading to an inference of non-existence of any industrial dispute between them. The reference is pending since 1993 and it is of no use to drag the same any more for taking steps by the parties. Under such circumstances, a 'No dispute' Award is being rendered and the reference is disposed of on 'No dispute' Award basis on the presumption of non-existence of any industrial dispute between the parties presently.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2199 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी. सी. एल. के प्रबन्ध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं 1, धनबाद, के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-20012/(302)/91-आई.आर. (सी-I)]

श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2199.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCC Ltd. and their workman, which was received by the Central Government on 7-7-1999.

[No. L-20012/(302)/91-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)

(d) (2A) of the Industrial Dispute Act, 1947.

Reference No. 93 of 1992

PARTIES :

Employers in relation to the management of Moonidih Project of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. Prasad, Presiding Officer.

APPEARANCES :

For the Employers : Shri H. Nath, Advocate.
For the Workmen : Shri S. P. Verma, Area Secretary, Dhanbad Colliery Karmachari Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 1st July, 1999

AWARD

By Order No. L-20012/(302)/91-I.R. (Coal-I) dated 31-8-1992 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the denial of the management of Moonidih Project of M/s. Bharat Coking Coal Ltd. P.O. Moonidih, Dist. Dhanbad in accepting the date of Birth of Doman Nonia as 24 years on 1-9-1969 as per register of Alkusa Colliery is justified? If not, to what relief the workman is entitled?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in this Tribunal. I have gone through the terms of settlement and I find them quite fair and reasonable. I allow the prayer and pass an award in terms of the settlement. The memorandum of settlement shall form part of this award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the I.D. Act, 1947.

S. PRASAD, Presiding Officer

Before,

The Presiding Officer,
Central Govt. Industrial Tribunal No. 1,
Dhanbad.

Reference Case No. 93/92

Employers in relation to the Management of Western Jharia Area, Moonidih Project of M/s. Bharat Coking Coal Limited.

AND

Their Workman.

That the humble petition for compromise on behalf of the parties most respectfully sheweth :—

1. That the Central Government of notification No. 20012/(302)/91-IR (Coal-I) dated 31-8-92 has referred under Section 10 of the Industrial Dispute

Act, 1947 for adjudication in the matter quoted above with the following Schedule :—

SCHEDULE

"Whether the action of the Management of Moonidih Project of M/s. BCCL in not accepting the date of Birth of Shri Doman Nonia as 24 years as on 1-9-69 as per Form 'B' register of Gansadih|Alkusa Colliery is justified ?

2. That the parties discussed the dispute outside the Court and have settled the dispute on the following terms and conditions :—

- (i) That the date of birth of the concerned workman Shri Doman Nonia S/o Bengali Nonia working as T. R. worker is to be treated as 24 years on 1-6-69 as recorded at Gansadih|Alkusa Colliery.
- (ii) That this date of birth as 24 years as on 1-6-69 will be rectified and recorded wherever necessary of the Management recorded in place of 30 years as on 1-9-69.
- (iii) That this settlement resolves all the dispute what-so-ever.
- (iv) That it is also agreed that seven copies of this settlement shall be filed before the Hon'ble Tribunal and the Hon'ble Tribunal shall be requested to pass an Award in terms of settlement.

It is, therefore, prayed that your honour may be graviously pleased to accept the settlement and pass an Award in terms of settlement.

And for this act of kind the parties shall ever pray.

Management side :

1. Sd|-

2. Sd|-

Part of the award.

Witnesses :

1. Sd|-

2. Sd|-

Place : Moonidih

Date : 2-6-99.

Workman side :

1 Sd|-

(S. P. VERMA)

Area Secretary D.C.K.S.

W. J. Area.

2. Sd|-

नई दिल्ली, 7 जुलाई, 1999

का.आ. 2200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार टेलीकाम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्बंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था ।

[नं. एल-40012/147/92-आई.आर. (डी.यू.),
नं. एल-40012/148/92-आई.आर. (डी.यू.),
नं. एल-40012/149/92-आई.आर. (डी.यू.),
नं. एल-40012/38/94-आई.आर. (डी.यू.),
नं. एल-40012/60/94-आई.आर. (डी.यू.),
नं. एल-40012/56/94-आई.आर. (डी.यू.),
नं. एल-40012/96/94-आई.आर. (डी.यू.),
नं. एल-40012/99/94-आई.आर. (डी.यू.),
नं. एल-40012/100/94-आई.आर. (डी.यू.),
नं. एल-40012/98/94-आई.आर. (डी.यू.),
नं. एल-40012/65/94-आई.आर. (डी.यू.),
नं. एल-40012/259/94-आई.आर. (डी.यू.)]

के. आर. वर्मा, डेस्क अधिकारी

New Delhi the 7th July, 1999

S.O. 2200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecommunication and their workman, which was received by the Central Government on the 6-7-99.

[File Nos:— L-40012/147/92—IR(DU),

L-40012/148/92—IR(DU),

L-40012/149/92—IR(DU),

L-40012/38/94—IR(DU),

L-40012/60/94—IR(DU),

L-40012/56/94—IR(DU),

L-40012/96/94—IR(DU),

L-40012/99/94—IR(DU),

L-40012/100/94—IR(DU),

L-40012/98/94—IR(DU),

L-40012/65/94—IR(DU),

L-40012/259/94—IR(DU)]

K. R. VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL
CUM

LABOUR COURT, BANGALORE

Dated, the 21st June, 1999

Present ; Justice R. Ramakrishna,

Presiding Officer

C.R. NO. 3/1994

I PARTY

Sri Pundalik R. Patil,
C/o Sri A. M. Kambi,
427, Congress Road,
Tilakwadi,
Belgaum-590006.

II PARTY

The Telecom District
Manager,
Guruwarpeth,
Tilakwadi,
Belgaum-590006.

C. R. NO. 4/1994

I PARTY

Sri Anant D. Kamble
S/o Sri A. M. Kambi,
427, Congress Road,
Tilakwadi,
Belgaum-590006.

II PARTY

-do-

C.R. NO. 5/1994

I PARTY

Sri Pradeep T. Patil,
C/o Sri A. M. Kambi,
427, Congress Road,
Tilakwadi,
Belgaum-590006.

II PARTY

-do-

C. R. NO. 6/1994

I PARTY

Sri Javed A. Talikote,
C/o Sri A. M. Kambi,
427, Congress Road,
Tilakwadi,
Belgaum-590006.

II PARTY

-do-

C.R. NO. 68/1997

I PARTY

Shri A. K. Chandgodkar
At & PO Nandgad
Khanapur Taluk
Belgaum-590010

II PARTY

The Telecom District
Manager,
Guruwarpeth,
Tilakwadi,
Belgaum-590006

C.R. NO. 102/1997

I PARTY

Shri D. S. Sunkad
At & PO Murgod,
Saundatti Taluk
Belgaum-590020

II PARTY

-do-

C.R. NO. 103/1997

I PARTY

Shri M.K. Sunkad
At & PO Tallur
Saundatti Taluk
Belgaum-590019

II PARTY

-do-

C.R. NO. 104/1997

I PARTY

Shri S.M. Nilajkar
At & PO Jalage
Kahanapur Taluk
Belgaum-590006

II PARTY

-do-

C.R. NO. 105/1997

I PARTY

Shri U.G. Rayangoudar
At & PO Chikkathigeri
Saundatti Taluk
Belgaum-590010

II PARTY

-do-

C.R. NO. 106/1997

I PARTY

Shri S.S. Shintri
At & PO Chikkulligeri
Saundatti Taluk
Belgaum-590011

II PARTY

-do-

C.R. NO. 107/1997

I PARTY

Shri Sankar A. Malagi
C/o Sri. Prakash B. Katti
At: Halatti,
PO & Taluk Chinkodi,
Belgaum-590015

II PARTY

The Telecom District
Manager,
Guruwarpeth,
Tilakwadi
Belgaum-590006

C.R. NO. 108/1997

I PARTY

Shri S.P. Badiger
At & PO Belvadi
Bailhongal Taluk
Belgaum-590010

II PARTY

-do-

C.R. NO. 115/97

I PARTY

Shri A.A. Ingale
C/o. Sri. A.M. Kambi,
427, Congress Road
Tilakwadi,
Belgaum-590006

II PARTY

-do-

COMMON AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred the following disputes for adjudication vide their reference Numbers:

C.R. NO. 3/1994

(a) No. L-40012/147/92-IR(DU) dated 10-1-1994.

THE SCHEDULE

"Whether the termination of the services of Shri Pundalik R. Patil w.e.f. 30-6-87, Casual Mazdoor by the management of Telecom Dist., Manager, Belgaum are justified or not? If not to what relief the workman is entitled?"

C.R. NO. 4/1994

(b) No. L-40012/147/92-IR(DU) dated 10-1-1994

THE SCHEDULE

"Whether the termination of the services of Shri Anant D. Kamble, Casual Mazdoor w.e.f. 30-6-1987 by the Management of Telecom District Manager, Belgaum are justified or not? If not to what relief the workman is entitled?"

C.R. NO. 5/1994

(c) No. L-40012/148/92-IR(DU) dated 10-1-1994

THE SCHEDULE

"Whether the termination of the services of Shri Pradeep T. Patil, Casual Mazdoor w.e.f. 30-6-1987 by the management of Telecom District Manager, Belgaum are justified or not? If not to what relief the workman is entitled?"

C.R. NO. 6/1994

(d) No. L-40012/149/92-IR(DU) dated 10-1-1994

THE SCHEDULE

"Whether the termination of the services of Shri Javed A. Talikote w.e.f. 30-6-87 Casual Mazdoor by the management of Telecom District Manager, Belgaum are justified or not? If not to what relief the workman is entitled?"

C.R. NO. 68/1997

(e) No. L-40012/38/94-IR (DU) dated 4-8-95

THE SCHEDULE

"Whether the action of the management of Telecom District Manager, Belgaum terminating the services of Shri A.K. Chandgodkar, Casual Mazdoor, w.e.f. 31-7-1987 is justified? If not, to what relief the workman is entitled?"

C.R. NO. 102/1997

(f) No. L-40012/60/94-IR(DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri D.S. Sunkad, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R. No. 103/1997

(g) No. L-40012/56/94-IR(DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri M.K. Sunkad, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not to what relief the workman concerned is entitled?"

C.R. No. 104/1997

(h) No. L-40012/96/94-IR(DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri S.M. Nilajkar, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R. No. 105/1997

(i) No. L-40012/99/94-IR(DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri U.G. Rayangoundar, Casual Mazdoor by the management of the Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R. No. 106/97

(j) No. L-40012/100/94-IR(DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri S.S. Shintri, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R. No. 107/97

(k) No. L-40012/98/94-IR (DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri Sankar A. Malagi, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R. No. 108/97

(l) No. L-40012/65/94-IR (DU) dated 30-1-1996

THE SCHEDULE

"Whether the termination of the services of Shri S.P. Badiger, Casual Mazdoor by the management of Telecom District Manager, Belgaum is justified and legal? If not, to what relief the workman concerned is entitled?"

C.R.No. 115/97

(m) No. L-40012/259/94-IR (DU) dated 26-2-1996

THE SCHEDULE

“Whether the action of the management of General Manager, Telecom, Bombay and the Asstt. Engineer, Telecom Belgaum is justified in terminating the services of Shri A.A. Ingale? If not, to what relief the workman is entitled to?”

(2) As could be seen in the schedule to the references, the II Party should justify the termination of the workmen concerned in each case. The references were sent on various dates. Initially a batch of 4 cases are taken and later the other 9 cases are clubbed to record a common evidence as the question of fact and Law involved in these cases are similar in nature. In fact, the Claim Statements filed by all the workmen are identical in nature except the date of their joining the service and the termination. The counter Statement, in the form of objections to the claim statements, an identical stand was taken by the II Party. In view of these circumstances, after

recording the evidences in all the cases this Tribunal decided to give this common order in C.R. No. 3/94.

PREAMBLE

(3) The II Party has taken the assistance of the workmen in question, and several others to work as casual labourers in connection with expansion of telecom facilities at Belgaum district. The services of these workmen were utilised for digging, laying down cables, erecting poles, drawing lines and other sundry works which was continuously done for a no. of years. For better appreciation a table is given indicating the case of all these workmen as disclosed by them regarding date of joining and date of their termination.

Sl. No.	C.R. No.	Name of the workman	Length of service not disputed by the employer	Source from where length of service not disputed
1	2	3	4	5
1.	3/94	Sri P. R. Patil	01-06-86—30-6-87	Length of service not disputed in W.S. para 2
2.	4/94	Sri A.D. Kamble	01-03-86—30-6-87	Length of service not disputed in W.S. Para 2 & 4
3.	5/94	Sri P. T. Patil	03-04-85—30-6-87	..
4.	6/94	Sri J. A. Talikoti	02-01-86—30-6-97	..
5.	68/97	Sri A.K. Chandragadkar	19-9-86—31-7-87	Para 2
6.	102/97	Sri D. S. Sunkad	06-9-85—13-6-87	..
7.	103/97	Sri M. K. Sunkad	17-3-86—25-3-87	..
8.	104/97	Sri S.M. Nilajkar	01-9-86—31-7-87	..
9.	105/97	Sri U. G. Rayangoundar	11-3-86—29-6-87	..
10.	106/97	Sri S. S. Shintri	15-9-86—29-6-87	..
11.	107/97	Sri S.A. Malagi	03-3-86—30-6-87	..
12.	108/97	Sri S. P. Badiger	1-2-86 to 29-6-87	..
13.	115/97	Sri A. A. Ingale	1-12-81 to 1-6-86	

(4) The main contentions raised by all these workmen are that they have worked for over 240 days in a calendar year which fact was not denied by the II Party. Their services came to an end on the basis of executive instructions, without the strength of Law and therefore the action of the II Party in removing these workmen amounts to retrenchment. The II Party have not followed the procedures laid down under chapter V-B and therefore there is violation of Sections 25F (A, F, C) and also violation of Rule 76, 58(4) of the Industrial Disputes (Central) Rules, 1957.

(5) They have also further contended that their termination was made in derogation of Supreme Court direction in daily rated P & T Mazdoor Union Vs. Union of India and others, AIR 1987 SC 234.

(6) They have further contended that the II Party failed to observe the mandatory provisions established in the Statute. They are entitled for reinstatement and consequential benefits such as continuity in service and backwages.

(7) The II party being represented by the Learned Standing Counsel, Central Government has filed objections in all these disputes. The objections

are in the nature of stereo type and therefore the tenor of objections is required to be examined.

(8) It is contended that the petitions are not maintainable. All the allegations are required to be proved by the I Party workmen. Thereafter, the II Party gave the date of employment and date of termination of each employee who was engaged as casual mazdoor. The II Party denied that they have worked for more than 240 days in a calendar year. Their further contention is all these workmen were terminated by giving one month's notice which is not arbitrary or illegal.

(9) Therefore, it is the consistent case of the II Party that the notices given to these workmen as per DOT Lt. No. 269/130/78-STN dt. 1-10-84 endorsed by CGMT, BO under letter No. RND/2-48/RNGS/111 dt. 10-4-85 action was taken. Therefore, there is no irregularity and the workmen are not eligible for reinstatement.

(10) Against the no. of days worked by these workmen as indicated in the table above, the II Party in their objections to Claim Statement have given period of working of each workman. In accordance with the contentions raised by them, we have prepared another table as indicated by the II party.

Sl. No.	C.R. No.	Name of the workman	Length of service/No. of days	Date of termination
1	2	3	4	5
1.	3/94	Sri P. R. Patil	1-4-86—31-12-86/ 123 days	12-6-87
2.	4/94	Sri A. D. Kamble	(a) 3/86—31-12-86/ 123 days (b) 1-1-87—11-6-87 123 days	12-6-87
3.	5/94	Sri P. T. Patil	3-4-85—not given Not worked for 240 days	12-6-87
4.	6/94	Sri J. A. Talikoti	2-1-86—12-6-87 Not worked for 240 days	12-6-87
5.	68/97	Sri A.K. Chandragadkar	(a) 19-9-86—31-12-86/ 104 days (b) 1-1-87—31-7-87/ 207 days	1-8-87
6.	102/97	Sri D. S. Sunkad	(a) 6-9-85—31-10-85/ 102 days (b) 1-1-86—13-6-86/ 78 days	14-6-86
7.	103/97	Sri M. K. Sunkad	(a) 17-3-86—31-12-86/ 280 days	25-3-87

1	2	3	4	5
			(b) 1-1-87—25-3-87/ 77 days	
8. 104/97	Sri S.M. Nilajkar		(a) 1-9-86—31-9-86/ 122 days (b) 1-1-87—31-7-87/ 182 days	1-8-87
9. 105/97	Sri U. G. Rayangoudar		(a) 11-3-86—31-12-86/ 144 days (b) 1-1-87—29-6-87/ 180 days	1-7-87
10. 106/97	Sri S. S. Shintri		(a) 15-9-86—31-12-86/ 105 days (b) 1-1-87—20-6-87/ 180 days	1-7-87
11. 107/97	Sri S. A. Malagi		(a) 3-3-86—31-12-86/ 204 days (b) 1-1-87—30-6-87/ 140 days	1-7-87
12. 108/97	Sri S. P. Badiger		(a) 1-2-86—31-12-86/ 294 days (b) 1-1-87—29-5-87/ 120 days	30-6-87
13. 115/97	Sri A. A. Ingale	Not given		1-6-86

"On the basis of the pleadings, my learned predecessor has not framed any additional issues. It was made clear that the point for adjudication is covered by the schedule to reference. No separate issues are required. It is made clear, all other subsidiary points, if any, will be heard during final arguments".

The above observatoin was made as it relates to C. R. 3, 4, 5, and 6/94. In respect of other cases starting from 68/97 onwards another Presiding Officer who succeeded the earlier Presiding Officer who held "no issue arises" has however framed some additional issues both in the earlier cases and in some cases of 1997 also. The sum and substance of the additional issues are to the effect ;

- (1) Whether the II Party proves that the Telecom Department is not an industry and therefore this Tribunal has no jurisdiction to try the dispute?
- (2) Whether the I Party Proves that he was a workman and entitled for his relief under Industrial Disputes Act?
- (3) Whether the II Party proves that the termination of the I Party is in accordance with Law governing the issue?

(11) Since in the counter statement filed, in almost all the disputes, there was no scope to frame any additional issues at all, it appears that the II Party have filed the written statements once again which gave power to this Tribunal to frame the additional issues cited above. But, the order sheet does not disclose as to how this Tribunal give permission to file written statements once again highlighting the jurisdiction and maintainability of these disputes.

(12) The written statement filed later does not bear the signature of the Presiding Officer then working. As it bears the seal of this Tribunal these statements are presumably filed in the Office.

(13) In the disputes registered during 1997, the same procedure is adopted by the II Party showing that these statements are objections to the Claim Statement. There is an endorsement by this Office that these statements are received on 29-1-98. These facts clearly demonstrates that the II Party, without taking prior permission by the Tribunal and without even making any application to this effect appears to have managed to file these statements describing them as written statements, the objections to Claim Statements etc. This is highly irregular.

14. A question may arise as to how the I Party allowed the Court to accept these later statements on the basis of which the additional issues are framed. The answer is very simple. All these workmen are represented by one of the workman who also was terminated by the II Party. Therefore, their knowledge of legal procedure is very much limited. This advantage was taken by the II Party to make a mess of all these cases. However, having regard to the fact that these are legal questions which may be raised at any stage of the case, as Law declared, we have to take note of these factors also. I will discuss these points at a later stage.

15. Now, we have to appreciate all these disputes on facts which are available in the pleadings and evidence of parties. The II Party examined altogether 2 witnesses on their behalf. Few workmen were examined on the merits of these disputes. Some workmen have given the evidence in the form of Affidavits subjecting themselves for cross examination. To the extent possible we have to appreciate the oral evidence on the question of facts and then proceed to discuss the case on the question of Law.

16. Sri B. Shivananda, Sub-Divisional Engineer was examined as MW1 in C.R. 115/97. This witness has stated in his evidence that the II Party has taken a project to lay cable from Pune to Belgaum which is called 'Co-Axial Cable Project'. The I Party workmen were working in that Project as Casual labourers. This project was completed approximately around 1986. The I Party workmen are unskilled labourers. The Department is not empowered to extract the work once the work of a project is completed. Due to completion of the project, one month's notice was given to the I Party. There was no deficiency as it relates to payment of salaries during the tenure of the work. For supervising and executing, they have drawn from various other branches. They are not empowered to shift the casual labourers to other projects, if the project for which they are engaged is completed.

17. In the cross-examination it is elicited that he has joined the Project circle during 1978. He was not maintaining muster-rolls or payment particulars of these casual labourers. He was not the Controlling Officer. He is not aware of any cases where some of the workmen working in these project were sponsored to other projects after completion of the work. He knows the workmen Sri Ballannavar, Talikote and Nesarkar. They are working under me and now they are working under Territorial Division, Belgaum.

18. The next witness, Sri G.B. Kittur gave an evidence which we have taken as a common evi-

dence connected to all these disputes. He has stated in his evidence that the Chairman, DTC, New Delhi is the head of all Telecommunication Departments in India. They are bound to comply the Orders issued by DOT. Ex. M1 is one such Circular issued with reference to casual labour engagement. They are empowered to engage casual labourers due to the restrictions in Ex M1. Pursuant to Ex. M1., they retrenched the services of casual labourers by issuing one month's notice.

19. This witness further stated that they do not dispute the fact that these workmen are casual employees and they have been retrenched by issuing one month's notice. The records connected to the service will be preserved depending on the nature of work. In case of service books, they will be maintained without destruction. With regard to any other work which is not a permanent work in nature, the records will be destroyed after 5 years and they have not violated any Act terminating these workmen.

20. It is elicited in the cross-examination that as per the Circular, only the workmen who have been engaged after 30-3-85 were liable for retrenchment. The persons who have been appointed prior to 30-3-85, their services are regularised. He has denied the suggestion that though the work was available, the concerned workmen were retrenched on the basis of Ex. M1. He has denied the suggestion of not issuing one month's notice to the workmen. The Notice dt. 12-6-87 was got marked through this witness as Ex. W1.

21. When a specific question was asked to this witness that he has removed the workmen stated in Ex. W1 w.e.f. the date mentioned, this witness said "they have not returned to work after that date". On other specific question about observation of notice issued to workmen, this witness says that some notices were issued by various subordinate offices, and when they asked for the copy of the notice, some have said that they are not traceable. He has denied the suggestion that except some of the workmen the notices are not issued to all the workmen and they have been terminated by telling orally. He has accepted the fact that they have not been paid any compensation consequent to retrenchment.

22. The II Party though contended in their objection Statements the length of service of these workmen as enumerated in the 2nd table shown at supra, they are not able to substantiate these averments by placing any acceptable materials. Their contention remain as the only contention and nothing else. On the contrary, if we pursue Table No. 1 at supra, all the workmen have worked for more than 240 days in a year. Even

in the cross-examination made to these witnesses independently by the learned advocate for the II Party against their evidence contained in the Affidavits, it is shown that they have worked for more than 240 days though it is made out that the total no. of working days is enlarged to two years.

23. The II Party who were required to place better evidence as regards these questions, they have failed to place such materials by simply saying that those records are not available and this is not acceptable to this Tribunal. This only shows the carelessness of the II Party in their administrative work. Therefore, there is no impediment to accept the evidence of the I Party that they have worked for more than 240 days in a year continuously.

24. The II Party have also not placed any material that their services were intermittent and there is no continuity. Infact, they will have Muster rolls of every workmen whether he does temporary work or casual work which is necessary for accounting purposes. They shall also maintain the Payment Registers as it is also necessary to show expenses incurred in the Department. These are elementary principles which I am not going to highlight further. It is sufficient to note that these workmen had a continuous work of 240 days and more in a year.

25. It is a misnomer to calculate that the no. of working days shall be in a calendar year. This is not the object of Law. For example, if a workmen does 50% of the work in a given year and after completion of December he continues to work from January for remaining days, it cannot be said that he has not worked for 240 days in a year.

26. Since the II Party who is supposed to be better equipped to face such contingencies shall maintain records and assist the Tribunals in coming to a just conclusion. Since they withheld such information, an adverse inference can be drawn against them. Therefore, without much ado, I hold that these workmen have rendered their service for more than 240 days in a year with the II Party.

27. Once we come to the conclusion that these workmen have worked for more than 240 days, then their removal from the service amounts to retrenchment under Sec. 2(o) of the Industrial Disputes Act. If it is held that it is a case of retrenchment the management shall follow the mandatory procedures laid down under Sec. 25F of the Act. They shall comply strictly to the sub-clauses of 25F i.e. they shall give one month's notice in writing indicating the reasons for re-

trenchment and the period of notice as expired or the workmen has been paid in lieu such notice wages for the period of the notice. The workman has to be paid at the time of retrenchment, compensation which shall be equivalent to 15 days average pay for every completed year of continuous service or in part thereof in excess of 6 months. They shall issue notice in the prescribed manner served on the appropriate Government.

28. These directions are mandatory. All these directions shall be fulfilled simultaneously. In deviation to this procedure, the Tribunals are empowered to treat termination without complying to these Provisions as nullity and the workmen are entitled for re-instatement and payment of backwages. I am not going to dwell with all the authorities so far rendered on this subject, as this is a uniform opinion rendered in almost all the Judgements.

29. The next question that requires determination is the contentions raised by the II party with regard to the jurisdiction of this Tribunal on the ground that the II Party is not an industry and the I party are not the workmen.

30. As I said earlier the second party has taken this contention at a later stage when the claim statement in the form of objections are already filed. To prove their contention they have strongly relied to a judgement rendered by the Hon'ble Supreme Court in BTCE Association, Prabhadevi Telephone Exchange Vs Union of India. They have also relied on Sub-Divisional Inspector of post, Vaikam and Ors etc., vs Theyyam Joseph Etc., reported in 1956 (2) SC 457.

31. In Theyyam Joseph case the question before the Supreme Court was whether the postal department is not an industry, so far it relates to Extra Departmental Agents. By taking into consideration the nature of appointment, and their tenure of service, the Supreme Court held that Extra Departmental Agents are Civil Servants governed by the statutory Rules framed by the Government. Since they are also governed by the conduct rules they are not the 'workmen' as defined under Section 2(s) of the Industrial Disputes Act, and therefore the Industrial Disputes Act is not applicable to question a decision made against them by the department.

32. Contrary to the above the Telephone Department is an Industry and the employees engaged to render services are workmen. Admittedly the workmen, involved in these disputes are not governed by any conditions of service. The second party also not issued any appointment order. Their tenure also not fixed. Their attendance used to be taken on

a muster roll and the wages paid to them used to be maintained by the second party. Since there was no specific rules framed defining their service conditions, they have to be governed by some statute to safeguard their interest. Since they have fulfilled the definitions of workmen as defined in the Act under Section 2(s) there cannot be any impediment to treat them as workmen.

33. Having come to this conclusion the next question is whether the second party is an industry or not? We have to understand the term by relying on the definitions given in the Industrial Disputes Act, which has been interpreted by the Hon'ble Supreme Court of India in a number of Judgements. If we peruse the provisions in the Industrial Disputes Act the legislature has clearly indicated their intention in Section 2(j), what is Industry. It is declared that the Postal, Telegram or Telephone falls under the provision of Section 2(j) and they are treated as an industry. Since they are falls under utility services their definition applies with full force unless some statutory rules are framed to govern their service conditions. The official class will be governed by the Central Government Service Rules and therefore it may be said, in their respect the Industrial Disputes Act is not applicable. But there are instances where a parallel remedy available under separate provisions a workmen is entitled to select a remedy suitable to him.

34. When the term industry was defined by the Hon'ble Supreme Court by number of benches, the law laid down was that some of the reasonings given are 'obiter dicta' and 'Per incurim'. There observations were made as this matter went to different benches, questioned by different associations. Hon'ble Judges taking into consideration the peculiar circumstances available in each case have rendered their opinion that the particular undertaking is an industry or not.

35. In B.T.C.E. Association, cited Supra a clear demarcation was made by a bench of two learned Judges. Infact all the leading cases on the subject were discussed by the Hon'ble Judges of this bench including BWSHD V/s Rajappa, a judgement rendered by a constitutional bench.

36. The Supreme Court laid down the test as under:

"The term analogous to the trade or business" could not cut down the scope of the term "industry". The said words can reasonably mean only activity which results in goods made and manufactured or service rendered which are capable of being converted into saleable ones. They must be capable of entering the word of "res commercium", although they may be kept

out of the market for some reason. It is not the motive of an activity in making goods or running a service but the possibility of making them marketable if one who makes goods or renders service so desires, that should determine whether the activity lies within the domain or circle of industry. But even this may not be always a satisfactory test. By this test the type of service which are rendered purely for the satisfaction of spiritual psychological urges of persons rendering those services would be excluded. Whenever an industrial dispute would arise between either, employees and their workmen or between workmen and workmen, it should be considered an area within the sphere of "industry" but not otherwise. In other words, the nature of the activity will be determined by the conditions which give rise to the livelihood of the occurrence of such disputes and their actual occurrence in the sphere.

37. The term "sovereign" should be reserved technically and more correctly for the sphere of ultimate decisions. Sovereignty operates on a sovereign place of its own. Only those services which are governed by separate rules and constitutional provisions such as Articles 310 and 311 should, strictly speaking are excluded from the sphere of industry by a necessary implication.

38. Their Lordships in BTCE Association, infact reviewed almost all the case law on the subject and held at Para No. 9 as follows:

It is, therefore, clear that there have been two streams of thinking simultaneously in the process of development to give protection to the employees of the Corporation. Its actions are controlled as an instrumentality of the State and rules are made amenable to judicial review. Whether there exists no statutory or analogous rule/instructions, the provisions of the Act get attracted. The employees are entitled to avail constitutional remedy under Article 226 or 32 or 136, as the case may be. The remedy of judicial review to every citizen or every person has expressly been provided in the Constitution. It is a fundamental right of every citizen. In the absence of statutory/administrative instruction in operation, the remedy of reference under Section 10 of the Act is available. Therefore, two streams, namely, remedy under the Act by way of reference and remedy of judicial redressal by way of proceedings under Article 226 or a petition filed before the Administrative Tribunal to the aggrieved persons, are co-existing. If the doctrine laid in Bangalore Water Supply Board case is strictly applied, the consequence is catastrophic and would give a carte blanche power and

with *laissez faire* legitimacy which was buried fathom deep under the lethal blow of Article 14 of the Constitution which assures to every person just, fair and reasonable procedure before terminating the services of an employee. Instead, it gives the management/employer the power to dismiss the employee/workman with one month's notice or pay in lieu thereof and/or payment of retrenchment compensation under the Act. The security of tenure would be in great jeopardy. The employee would be at the beck and call of the employer, always keeping his order of employment in a grave uncertainty and in a fluid state like demourous's sword hangs over the neck. On the other hand, if the interpretation of providing efficacious remedy under Article 226 gives protection to the workman/employee the speedy remedy under Article 226/Section 19 of the Administrative Tribunal Act. They would protect the employee/workman from arbitrary action of the employer subserving the constitutional scheme and philosophy. The Court would, therefore, strike a balance between the competing right of the individual and the State/agency or instrumentality and decide the validity of action taken by the Management. Necessarily, if the service conditions stand attracted, all the conditions laid therein would become applicable to the employees with a fixity of tenure and guarantee of service, subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the Rules or application of the principles of natural justice, as the case may be, in which event the security of the tenure of the employee is assured and the whim and fancy and vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand, if the findings is that there exist no statutory rules or certified standing orders exist or they are not either made or are inapplicable, the remedy of reference under Section 10 of the Act would always be available and availed of as it is an industry and indicia laid in Bangalore Water Supply Board case gets attracted.

(39) Their Lordships have concluded in Para 11 of the Judgement why they are considering that the Telecommunication Department is not an Industry. While reaching that conclusion, which was conclusively proved, that the concerned employees were working in Canteen Department but have been paid monthly salaries devised by canteen committee. Therefore to this limited extent the Telecommunication Department was held not an Industry as it regards to these category of workmen. Therefore this finding of the Supreme Court is not applicable

when it is proved that there is no statutory/Administrative instructions in operation as it regards to the workmen involved in this dispute. Therefore the contention of the second party that the law laid down by the Supreme Court in B.T.C.E. Association case is applicable to the facts and circumstances of these cases cannot be accepted.

(40) In view of these circumstances and the law laid down by the Supreme Court it cannot be held that the Telecommunication Department is not an Industry, when it relates to the conditions of services laid down to these casual labourers. In the result I make the following order:

ORDER

The second party are not justified in terminating the services of these workmen from the respective dates shown in the schedule to the reference. Since they have failed to follow the mandatory provisions contained in Section 25F of the Act the order of termination by giving one months notice is a nullity. Consequently all the above references are allowed. the order of termination made by the second party of all the first party workmen are hereby set aside.

Consequent to these order the first party workmen are entitled for re-instatement and back wages of 50% of what they were last drawn every month before their termination. There shall be continuity of services.

Keep a copy of this Award in the file of each disputes.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2201:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कार्पेट विविंग ट्रेनिंग सर्विस के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल-42012/10/97-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Carpet Weaving Training Service, and their workman, which was received by the Central Government on the 7-7-1999.

[No. L-42012/10/97-IR(DU)]

KULDIP RAI VERMA, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर ।

केस नं. : सी.आई.टी. /बी-2/98

विज्ञप्ति संख्या : एल-42012/10/97-आई.आर. (डीय)

श्री जयसिंह चौहान,

जरिए श्री सुरेश कश्यप,

ए.डी. (आर.सी.टी.यू.),

3, हथरोई, अजमेर रोड, जयपुर ।

बनाम

असिस्टेंट डायरेक्टर,

कारपेट विनिग ट्रेनिंग सेंटर,

4-ए, सिधी कालोनी, कारवाड़ रोड,

सोटवाड़ा, जयपुर 302 012

उपस्थित : प्रार्थी की ओर से — कोई नहीं

अप्रार्थी की ओर से — श्री रजनीकांत जैन

पंचाट तारीख : 22-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के
जरिए निम्न विवाद इस अधिकरण को न्याय निर्णय हेतु
निर्देशित किया गया था :—

"Whether the action of the Carpet Training Officer,
Carpet and Weaving Training Centre, Karna,
Bharatpur in terminating the services of Shri Jai
Singh Chauhan, Chowkidar w.e.f. 22-12-99 is legal
and justified? If not, to what relief the work-
man is entitled to and from what date?"

अधिकरण में उक्त निर्देश दिनांक 25-8-98 को
प्राप्त हुआ था। इसकी प्राप्ति के अग्रे पन्द्रह दिन
श्रमिक की ओर से क्लेम प्रस्तुत होना था। परन्तु
क्लेम प्रस्तुत नहीं किया गया। इसके अतिरिक्त
दिनांक 2-6-99 को एक रजिस्टर्ड नोटिस श्रमिक को
जरिए श्री सुरेश कश्यप (आर.सी.टी.यू.) को
भेजा गया, जो उसे प्राप्त हो गया। बावजूद तामील
रजिस्टर्ड नोटिस के श्रमिक की ओर से कोई उपस्थित
नहीं आया और न ही कोई क्लेम प्रस्तुत किया गया।
उक्त परिस्थितियों से ऐसा प्रकट होता है कि श्रमिक
की ओर से आर.सी.टी.यू. को क्लेम फाईल करने
में कोई रुचि नहीं है। ऐसी परिस्थितियों में विवाद
रहित पंचाट पारित किया जाता है। पंचाट की
प्रतिनिधि केन्द्रीय सरकार को औद्योगिक विवाद
अधिनियम, 1947 की धारा 17(1) के अन्तर्गत
प्रकाशनाई प्रेषित की जाए।

ह/ पीठासीन अधिकारी

नई दिल्ली, 8 जुलाई, 1999

का.आ. 2202:—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अन्वय में केन्द्रीय
सरकार रीजनाल रिसर्च इंस्टीट्यूट (आयुर्वेद) के प्रबंधक

के संबंध मियोजकों और उनके कर्मचारों के बीच, अनुबंध में
निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, जयपुर के पंचाट को प्रकाशित करती है, जो
केन्द्रीय सरकार को 7-7-99 को प्राप्त हुआ था।

[सं. एल 42012/12/97-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2202.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the
Central Government hereby publishes the Award
of the Central Government Industrial Tribunal,
Jaipur as shown in the Annexure, in the industrial
dispute between the employers in relation to the
management of Regional Research Institute (Ayur-
veda) and their workman, which was received by
the Central Government on the 7-7-1999.

[No. L-42012/12/97-IR(DU)]

KULDIP RAJ VERMA, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर ।

केस नं. : सीजीआईटी/बी-53/98

विज्ञप्ति संख्या : एल-42012/12/97-आई.आर. (डीयू)

श्री वृजेश कुमार शर्मा, पुत्र श्री भिमनलाल शर्मा,

मकान नं. बी-101, संतोष सागर कालोनी,

मंगोड़ी वालों की बगीची के सामने, ब्रह्मपुरी, जयपुर ।

बनाम

डी असिस्टेंट डायरेक्टर इंचार्ज,

रिजनल रिसर्च इंस्टीट्यूट (आयुर्वेद)

महाविद्यालय पैलैस, आमेर रोड, जयपुर

उपस्थित : — प्रार्थी की ओर से — कोई नहीं

अप्रार्थी की ओर से — श्री भरतेश गोयल

पंचाट तारीख : 29-6-99

पंचाट

केन्द्रीय सरकार के आदेश द्वारा उक्त विज्ञप्ति के जरिए
निम्न विवाद इस अधिकरण को न्याय निर्णय हेतु निर्देशित
किया गया है :—

"Whether the action of management of Regional Re-
search Institute (Ayurveda), Jaipur is justified in
termination the services of workman Sh. Brajesh
Kumar Sharma w.e.f. 18-10-95 who has employed
as a daily rated class-IV employee and completed
more than 240 days of service in a year prior to
the date of termination (18-10-95) as he was not
paid notice pay in lieu of notices of one month
and retrenchment compensation. If not, what relief
he is entitled to?"

उक्त आदेश दिनांक 25-8-98 को प्राप्त हुआ था। निर्देश आदेश प्राप्त होने के अन्दर 15 दिवस श्रमिक को स्टेटमेंट आफ क्लेम प्रस्तुत करना था परन्तु उसने स्टेटमेंट आफ क्लेम प्रस्तुत नहीं किया। इसके अतिरिक्त उसे रजिस्टर्ड पत्र के जरिए नोटिस भेजा गया कि वह दिनांक 29-6-99 को क्लेम प्रस्तुत करे। उस पर नोटिस की तामील हो गई। बावजूद नोटिस के न तो श्रमिक उपस्थित आया न ही स्टेटमेंट आफ क्लेम प्रस्तुत किया, जिससे ऐसा प्रकट होता है कि उसे क्लेम प्रस्तुत करने में कोई रुचि नहीं है। उक्त परिस्थितियों में ऐसा अनुमान लगाया जाता है कि पक्षकारों के बीच कोई विवाद नहीं रहा है अतः विवाद रहित पंचाट पारित किया जाता है। पंचाट की प्रतिलिपि केन्द्रीय सरकार को औद्योगिक विवाद अधिनियम, 1947 की धारा 17(1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह./-

पीठाधीन अधिकारी

नई दिल्ली, दिनांक 8 जुलाई, 1999

का.प्र. 2203.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोरडित फैक्ट्री के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 7-7-99 को प्राप्त हुआ था।

[सं. एल-40012/6/95-आई.आर.(डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 8th July, 1999

S.O. 2203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Cordite Factory and their workman, which was received by the Central Government on the 7-7-1999.

[No. L-40012/6/95-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, CHENNAI

Thursday, the 24th day of April, 1999

PRESENT :

Thiru. S. Ashok Kumar, M.Sc., B.L.,
Industrial Tribunal.

Industrial Dispute No. 40 of 1996

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I.D. Act, 1947 between the Workmen and the Management of Cordite Factory, Aravankadu).

BETWEEN

Shri A. Subramania Pillai,
S/o Anavadam Pillai,
D. No. 83, Sudalai Madan Koil Street,
Tirunelveli-643206.

AND

The General Manager,
Cordite Factory,
Aravankadu (Nilgiris) 643202.

REFERENCE :

Order No. L-40012/6/95-IR(DU), Ministry
of Labour, dated 24-4-96, Government
of India, New Delhi.

This dispute coming on for final bearing on Thursday, the 25th day of March 1999, upon perusing the reference claim, counter statements and all other material papers on record, upon hearing the arguments of Thiru G. Rajasekaran, Authorised Representative appearing for the petitioner and of Thiru S. Seshadri, Central Govt. Pleader, for respondent-management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue :

“Whether the action of the management of Cordite Factory in terminating the services of Shri A. Subramania Pillai Labourer in Gas Chemical Section, Cordite Factory, Aruvankadu, Coonoor is just, proper and legal? If not to what relief the workman is entitled to?”

2. The main averments found in the claim statement filed by the petitioner are as follows : The petitioner served in Indian Army for 16 years. As an ex-serviceman he was appointed in the respondent management on 1-8-78 and was working in the Gas Chemical Plant and Electricity Maintenance Department, as an Assistant. Because of the nature of employment, the petitioner became sick by a disease called Sclerotic Syndrome, and therefore, he was compelled to take medical leave from January 1986. The respondent management approved some of his medical leaves and did not approve other medical leaves. Since the doctors who treated the petitioner told him that if he continued to work in Chill conditions like Ooty, he cannot get complete relief from the disease and therefore the peti-

tioner applied several times for a transfer to SLR Factory, at Trichy. By a letter dt. 18-6-87, the respondent management asked the petitioner to submit an application for transfer to SLR factory at Trichy. The petitioner also applied for a transfer and waited for orders. While so by letter dt. 17-11-87, the respondent informed the petitioner that he has been dismissed from service w.e.f. 24-6-87. On receipt of such information, the petitioner appealed to the respondent to cancel the termination order or to transfer him to Trichy SLR factory. There was no reply from the respondent management and therefore petitioner was compelled to raise the dispute. The respondent who accepted his application to transfer to SLR factory, as an after thought terminated his service w.e.f. 24-6-87. The said termination order is not valid. The petitioner was not served with any charge memo or any notice of enquiry regarding any charge or second show cause notice. The alleged termination based on an ex parte enquiry is not sustainable and the same is in violation of principles of natural justice. The petitioner was demanding the respondent management to pay him compensation for the occupational disease and also salary for the period of medical leave. But the respondent has terminated the petitioner's service on the ground that he was on unauthorised absence. The petitioner prays to pass an award holding that the termination order of the petitioner is unjustified and direct the respondent to reinstate the petitioner in service with backwages and other attendant benefits.

3. The main averments found in the counter statement filed by the respondent are as follows : The petitioner was appointed in the respondent's factory, as Labourer 'B' grade on 1-8-1978. As the petitioner did not report to duty from 1-2-85 onwards, disciplinary action under Rule 14 of CCS (CC & A) Rules, 1965 was taken against him for unauthorised absence from duty. The Enquiry officer after affording adequate opportunities to the petitioner, conducted ex parte proceedings and held that the charge was proved. Only on the basis of the findings of the Enquiry officer, the petitioner was removed from service w.e.f. 24-6-87 (AN). The petitioner was removed from service as per CCS (CC & A) Rules, 1965 this Tribunal has no jurisdiction to entertain the present claim petition. As per the Administrative Tribunal's Act, 1985, the Central Administrative Tribunal only can decide the petitioner's dispute. On this score alone, the petitioner's claim is liable to be dismissed. It is denied that the petitioner was affected by an occupational disease called Siciatic Syndrome. The petitioner has not produced any material document to prove the above contention. No chemical gas is produced in the respondent's factory as alleged by the petitioner. It is denied that the petitioner was affected by the so-called "Siciatic syndrome" on account of chemical gas is totally wrong and unfounded. The petitioner remained absent from duty

unauthorisedly without any permission whatsoever for a long period and he sent Medical certificates covering absence period at a belated stage. Therefore, the management did not sanction leave to the petitioner. An employee is bound to submit Medical Certificate within 3 days from the date of falling ill but the petitioner did not comply with the said condition. The petitioner applied for transfer to the Factory situated at Trichy only after he was removed from service. Hence the petitioner's application was rejected. It is denied that enquiry was defective. A Charge memorandum was served on the petitioner on 5-3-1985 directing him to submit his statement within 10 days. The chargesheet sent to the petitioner's residential address was returned undelivered with postal endorsement "No such addressee". Another copy was sent to his residential address as given in service records and it was also returned. Before conducting ex parte proceedings, the enquiry officer sent 4 notices dt. 3-5-1986, 26-3-1986, 13-4-86, and 18-7-86 to the petitioner. One notice was received by the petitioner's wife on 16-5-86 and another notice dt. 13-4-86 was received by the petitioner himself on 30-4-86. In spite of this the petitioner did not attend the hearing. After petitioner's removal from service, he did not represent appeal to higher appellate authorities against the impugned order and at the belated stage, he has come before the Tribunal without any justification. The petitioner was removed from service after giving him enough opportunities and his removal is not illegal or violation of law. There is no merit in the claim petition. The respondent prays to dismiss the claim of the petitioner.

4. On behalf of the petitioner, the petitioner was examined as WW1 and Ex. W-1 to W-4 were marked. On behalf of the respondent Thiru Vikas. Works Manager, of the respondent management was examined as MW1 and Ex. M. 1 to M. 18 have been marked.

5. The Point for consideration is : 'Whether the action of the respondent management of Cordite Factory in terminating the services of Shri A. Subramania Pillai Labourer in Gas Chemical Section, Cordite Factory, Aravankadu, Coonoor is just, proper and legal ? If not to what relief the workmen is entitled to ?'

6. The Point : The petitioner an ex-serviceman was appointed in the respondent management's factory, Aravankadu, Nilgiris and on 1-8-78 and was working in the Gas Chemical Plant and Electricity Maintenance Department as an Assistant. He was unauthorisedly absent from 1-2-85 onwards without sending any leave letter or prior permission and therefore Ex. M. 1 memorandum of charges dt. 5-3-85 was sent to the last known address of the petitioner available in the service book. The address available in the service book is C/o K. V. Chokkiah, Quarter No. 5, Wellington Barracks,

Nilgiris. Ex. M. 1 charge memo sent to the above address has returned with the endorsement "no such addressee". The petitioner during cross-examination has admitted that he resided in the said address and it belongs to his brother-in-law. The returned covers are Ex. M. 10 series. Domestic enquiry was ordered by the respondent as per Ex. M. 2 order dated 26-6-85. The notice of enquiry Ex. M. 3, M. 5, M. 6, M. 7, M. 8 and M. 9 were sent on various dates, to the petitioner to attend the enquiry and all these notices also could not be served on the petitioner. According to the respondent one such notice was received by the petitioner's wife on 16-5-86 and another notice dated 13-4-86 was received by the petitioner himself on 30-4-86. The postal acknowledgement cards for receipt of notice by the petitioner's wife and petitioner himself are M-15 and M-14. The petitioner in his evidence has admitted receipt of one notice by himself, but denied receipt of notice by his wife. Since the petitioner failed to appear in the enquiry on receipt of notice an ex parte enquiry was held on 16-7-86 and the Enquiry Proceedings are Ex. W-4. The Enquiry Officer who conducted an ex parte enquiry in Ex. M. 12 his report dated 22-10-86 has held that the charge of unauthorised absence is proved. Accepting the findings of the Enquiry Officer by an order dated 24-6-87 Ex. M. 18, the petitioner was removed from service w.e.f. 24-6-87. The postal cover containing final order was also returned unserved. Meanwhile the petitioner has sent application with a medical certificate without signing the same, and also requested for an inter factory transfer to SLR factory, Trichy. By Ex. W-1 letter dated 18-6-87 the respondent informed the petitioner that the Medical Certificate sent by him for extension of leave has not been signed by him and the same is returned and also requested him to submit separate application in duplicate for transfer to SLR factory, Trichy.

7. The present contention of the petitioner is that he has sent Medical Certificate to the respondent without signing but the respondent has returned it vide his letter dated 18-6-87 and also asked the petitioner to send an application for his request for transfer to the SLR factory and within a week thereafter on 24-6-87 he has been removed from service as a punishment for unauthorised absence. The further contention of the petitioner is that the domestic enquiry has been conducted without giving an opportunity to appear and contest and therefore the domestic enquiry is vitiated for violation of principles of natural justice. As far as the opportunity to be given to the petitioners is concerned, the petitioner has been sent with charge memo several times to his address available in the service record i.e. address of his brother-in-law Thiru C. V. Chokkiah and all covers Ex. M. 10 series have been returned with endorsement "no such addressee".

During the cross-examination the petitioner had categorically admitted that Chokkiah is his brother-in-law and he was residing in his brother-in-law's house only. If really the petitioner was residing in his brother-in-law's house all the letters containing charge memo would not have been returned as "no such addressee". Similarly enquiry notices have also been sent not less than 6 times and notice dt. 13-4-86 for his appearance on 21-4-86, has been received by the petitioner himself and the said postal acknowledgement is Ex. M. 14. Similarly Ex. M. 8, enquiry notice dated 3-5-86 has been received by the petitioner's wife and postal acknowledgement card is Ex. M. 15. Even after receipt of Ex. M. 7 notice, the petitioner has not chosen to appear for the enquiry to participate in the enquiry till the enquiry was conducted ex parte on 16-7-86. But a verification of records would show that Ex. M. 9 notice is dt. 18-7-86 wherein the respondent was required to appear before the Enquiry Officer and also to verify the records on the said date and ex parte decision will be taken and the case will be closed once for all. When 25-7-86 has been fixed as the date for enquiry as per Ex. M. 9 notice which was not delivered and returned to the Enquiry Officer himself, and when the Enquiry notice is dated 18-7-86, I am at a loss to understand how an ex parte enquiry was conducted on 16-7-86. Similarly, Ex. M. 8 notice of hearing dated 3-5-86, said to have been received by the wife of the petitioner has been actually received by her on 16-5-86. But the date of hearing has been fixed on 12-5-86 and thus this notice has been received by the wife of the petitioner only 4 days later to the date of hearing. But the petitioner has denied the signature of his wife in the postal acknowledgement card. The petitioner as well as respondent either in the course of taking evidence or in the course of arguments have failed to note this discrepancy as to how an ex parte enquiry was conducted 16-7-86, when the enquiry itself was posted only on 25-7-86. Therefore, the decision of the Enquiry Officer to hold an ex parte enquiry on 16-7-86 is not sustainable in law. Further in Ex. W-4 findings of the Enquiry Officer, under the column assessing evidence and findings, he has mentioned as follows :

"Shri Subramania Pillai failed to appear before the Court to defend his case. The notices served on the defendant are also enclosed. The individual had sent a Medical Certificate dated 25-3-1985 from Mettupalayam asking for leave on Medical grounds from 1-1-1985 to 31-3-1985. After the expiry of leave, he did not report for duty. Again on 24-4-85, he had intimated from Bhavanisagar that he had applied earlier 3 months leave on medical grounds and that he may have to send Medical Certificate for another one month, but nothing came till date nor he asked for further extension."

The charge against the petitioner is that he was absent from 1-2-85. But it is admitted in the said assessment of evidence, the petitioner has submitted a leave letter asking for leave on medical grounds from 1-1-85 to 31-3-85. There is no evidence whether this leave letter was sanctioned or not. Again on 24-4-85, the petitioner has intimated from bhavansagar for one month leave but has extended leave any further. But the management witness Thiru A. K. M. Hassan has deposed in the domestic enquiry that one letter was received from the petitioner in February 1985 without any date asking for leave without mentioning the number of days which was forwarded to Vig. Section vide letter dt. 22-5-85 for further action. For the next question, he has answered he has not sent any medical certificate. Evidence of this witness is quite contrary to the assessment of evidence found in the findings of the Enquiry Officer. Ex. W-1 letter dt. 18-6-87 would show that the petitioner has sent another medical certificate for extension of leave, but it was not signed by him and therefore the same was returned. Therefore, Ex. W-4/M. 12 findings of the Enquiry Officer and Ex. W-1 letter dt. 18-6-87 it could be seen that the petitioner has sent medical certificate for leave for 3 months from 1-1-85 to 31-3-85 and he has sent another medical certificate for extension of leave. But the exparte enquiry which was conducted on 16-7-86, evidence has been let in to show that the petitioner has not submitted any medical certificate, or the said enquiry has been conducted on a date almost 9 days earlier than the date of enquiry as fixed in Ex. M. 9 notice. It is pertinent to note that no enquiry notice has been sent to the respondent for the hearing to be held on 16-7-86. Ex. M. 3, M. 5 to Ex. M. 8 notices are for intimating the date of hearing to be held on 25-7-85, 24-8-85, 5-4-86, 21-4-86 and 12-5-86. Therefore, it is clear that no enquiry was fixed on 16-7-86, 9 days earlier than the said enquiry notice. There was no programme to hold an enquiry on 16-7-86 and no such notice of enquiry has been sent by the respondent date of enquiry. If really an exparte enquiry was held on 16-7-86 there will be no necessity to send Ex. M. 9 notice dt. 18-7-86 fixing the date of enquiry on 25-7-86. Therefore from the document Ex. M. 3, M. 5 to M. 9 it could be safely concluded that on 16-7-86 no enquiry could have been conducted and now when the Tribunal wanted the enquiry proceedings, the respondent has stage managed to produce a document to show that an enquiry was conducted on 16-7-86. It is highly doubtful whether any enquiry would have been conducted on 16-7-86 as claimed by the respondent. Even if such an enquiry was really conducted on 16-7-86, the said exparte enquiry is not sustainable in law. The respondent wants to take advantage of certain admissions made by the petitioner during cross-examination that after receipt of enquiry notice, he failed to appear in the enquiry and therefore exparte enquiry was conducted and on this basis he was dismissed from

service. There is nothing wrong in making the said admissions. The petitioner has received one enquiry notice on 21-4-86 i.e. Ex. M. 7 notice of hearing dt. 13-4-86 in which the enquiry date has been fixed as 21-4-86. The said notice has been received by the petitioner at Mandakadux post, Trivandrum, Kerala, State which is several hundred kilometres away. The date of receipt of this notice i.e. 21-4-86 and the date of hearing is also the same and therefore the petitioner cannot practically attend the enquiry on 21-4-86. Thereafter no such notice was received by the petitioner.

8. I have already held that exparte enquiry held against the petitioner is not sustainable in law. The respondent has falsely introduced an enquiry proceeding dated 16-7-86. Even in Ex. W-1 letter of the respondent dt. 18-6-87 it is mentioned that medical certificate sent by the petitioner has been returned for want of his signature. There is no order by any authority of the respondent rejecting either the medical leave applied earlier or extension of leave sought for later. When the petitioner has sent leave letter supported by medical certificate, by no stretch of imagination, it can be held that his absence was unauthorised. In view of the fact that the applications for medical leave or extension of leave have not been rejected by the respondent management, there is no basis for framing a charge for unauthorised absence from 1-2-85 onwards.

In the result, award passed holding that the action of the management of Cordite factory in terminating the services of the petitioner Shri Subramania Pillai is not just and proper and the same is illegal. The workman is entitled for reinstatement with backwages and all other attendant benefits. If he has already reached the age of superannuation, instead of reinstatement his salary upto the date of superannuation and other benefits like terminal benefits should be paid to him. No costs.

Dated, this the 22nd day of April, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal
WITNESSES EXAMINED

For Petitioner-workman :

W.W. 1 : Shri A. Subramania Pillai.

For Respondent-management :

M.W. 1 : Thiru Vikas.

DOCUMENTS MARKED

Ex. W-1/18-6-87 : Letter from Asst. Works Manager ILB, to Shri A. Subramania Pillai, regarding Inter-factory transfer (xerox).

Ex. W-2/17-4-90 : Letter of Shri A. Subramania Pillai to the General Manager, Cordite Factory, Aravangadu (xerox).

Ex. W-3/17-11-87 : Letter to Sh. A. Subramania Pillai by Asst. Works Manager regarding removal from service (copy).

Ex. W-4/16-7-86 : Enquiry to be held in IO Office.

For Respondent-management :

M. 1/5-3-85 : Memorandum issued to the petitioner (xerox).

M. 2/26-6-85 : Order of appointment of Enquiry officer by the GM (copy).

M. 3/11-7-85 : Notice of 1 hearing issued by Enquiry authority (copy).

M. 4/ : Extract of Rule 15(4) of CCS (CC&A) Rules 1965.

M. 5/ : Notice of enquiry dt. 9-8-85 (xerox).

M. 6/ : Notice of hearing dt. 26-3-86 (xerox).

M. 7/ : Notice of hearing dt. 13-4-86 (xerox).

M. 8/ : Notice of hearing dt. 3-5-86 (xerox).

M. 9/ : Notice of hearing dt. 18-7-86 (xerox).

M. 10/ : Postal returned covers for the various notices issued to the petitioner (xerox).

M. 11/ : Postal acknowledgement cards in ack. of the notices (xerox).

M. 12/ : Enquiry report submitted by the Enquiry officer (xerox).

M. 13/16-1-88 : Letter from the respondent to the petitioner (xerox).

M. 14/ : Acknowledgement (xerox).

M. 15/3-5-66|Series : Letter to Shri A. Subramania Pillai by G. Balakrishnan Foreman with acknowledgement (copy).

M. 16/ : Enquiry report.

M. 17/ : Retd. Postal cover.

M. 18/24-6-87 : Order communicated to Subramania Pillai.

नई दिल्ली, 14 जुलाई, 1999

का.आ. 2204:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार अधिनियम

केन्द्रीय के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-7-99 को प्राप्त हुआ था।

[सं. एल-12012/535/95-सी-II]

वी.एस.ए.एस.पी. राजू, डेस्क अधिकारी

New Delhi, the 14th July 1999

S.O. 2204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 6-7-1999.

[No. L-12012/535/95-C-III]

V.S.A.S.P. RAJU, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,
TAMIL NADU, CHENNAI

Tuesday, the 20th day of April, 1999

PRESENT :

THIRU S. ASHOK KUMAR, M.Sc., B.L.,
INDUSTRIAL TRIBUNAL

INDUSTRIAL DISPUTE NO. 98 OF 1996

(In the matter of the dispute for adjudication under Section 10 (1)(d) of the I.D. Act, 1947 between the Workmen and the Management of Food Corporation of India, Madras).

BETWEEN

Shri Benjamin Bhaktharaja & 3 others,
Cl. IV employees,
C/o. FCI Zonal Office,
Madras-6.

And

The Zonal Manager,
FCI (Zonal Office),
Haddows Road,
Madras-6.

REFERENCE :

Order No. L-22012/535/95-IR(CII), Ministry of Labour, dated 18-10-96, Govt. of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 17th day of March, 1999, upon perusing the reference, claim counter statements and all other material papers on record, upon hearing the arguments of M/s. Row & Reddy, R. Vaidyanathan, R. Prabhavathu, Advocates appearing for the petitioner and of Thiru M. Imthias, Advocate appearing for the respondent-management and this dispute

having stood over till this for consideration, this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue :

"Whether the demand of Shri M. Benjamin Baktharaja, Class IV (Regional Office of FCI), Smt. K. Vasanthi Sweeper, R. Nagammal, Sweeper, Smt. S. Parvathi, Sweeper and Smt. S. Rajalakshmi of Zonal Office, Food Corporation of India, Madras for regularisation of their services against the management of Zonal Manager, FCI Madras is justified or not? If justified, what relief the above workmen are entitled to?"

2. The main averments found in the claim statement filed by the petitioner are as follows :

The petitioners have been in service of the respondent management for more than a decade under various cadres as mentioned below :

1. M. Benjamin Bhaktharaja Casual labourer—12-09-1986.
2. Smt. K. Vasanthi—Sweeper—01-07-1986.
3. Smt. R. Nagammal—Sweeper—02-07-1986.
4. Smt. S. Parvathi—Sweeper—18-11-1986.
5. Smt. S. Rajalakshmi—Sweeper—01-05-1987.

Having worked as Class IV employees even though they have worked for more than 1 decade, the management has not regularised their services. The claim of the petitioners have not been considered by the respondent only on the ground that they belong to Most backward community viz., scheduled caste and scheduled tribe. Without regularising the petitioners, the respondent had been recruiting persons according to their whims and fancies and persons who were appointed to the Class IV cadre long after the appointment of petitioners have been considered for regularisation. For all these 10 years, the petitioners have been doing strenuous services upto the satisfaction of all the officers in the respondent management and they have put in an unblemished record of service without any complaint whatsoever from any quarters. The petitioners have been engaged on full-time basis and if they are asked to go abruptly, after putting 10 long yrs of service not only they would be deprived of their livelihood and after a distant time they would not be in a position to get any employment. The petitioners raised a dispute before the conciliation officer vis., Asst. Commissioner of Labour (Central) Madras wherein the management took the stand that only as per the head quarters directions, the services of the petitioners have been dispensed with and further stated that the respondent has recommended for the regularisation atleast with prospective effect and they are awaiting for their approval. Ultimately, in their counter the respondent has stated that even though the petitioners have put in 10 years of service, they are left with no other alternatives but to dispense with the services of the petitioners by paying compensation under the workman's compensation Act, 1947. The conciliation

ended in failure. Majority of the petitioners have crossed more than 40 years and 2 of them have crossed more than 35 years and if they are asked to go in the middle, they may not be able to get suitable employment and their livelihood will be jeopardised. The respondent management, being a Government sector have no authority whatsoever to deprive the claim of any employee who have put in sufficient number of years of service and they have no right to discriminate the employees engaged in permanent vacancies and on daily wages, when especially both the cadre persons are doing identical work. The Supreme Court of India in Civil Writ Petition Nos. 4821 and 4817 of 1983 dated 5-8-1985 held that the persons appointed against sanctioned posts or otherwise does not make any difference and everybody should be protected and that Class IV employees engaged on casual basis are entitled to same salary and allowances like employees appointed on regular basis. Circumventing the law laid down by the highest court of the land, the claims of the petitioners are being deprived at the instance of the respondent management inspite of the fact, Government-sector is to first obey and implement the law of the land. The respondent has taken a belated decision for drawing a cut off date viz., 2-5-86 for which there is no basis and by employing the existing persons with all benefits and by regularising their services the respondent management will not be prejudiced, in any way. But on the other hand on the basis of the alleged cut off date without regularising the services of the petitioners, the respondent management were recruiting persons for Class IV posts, which is wholly unwarranted and against the interests of the petitioners and against the policy of Government of India. In an identical claim of the petitioners at the instance of the respondent management, a dispute raised with regard to the claim of one K. V. Sadhanandam, numbered as I.D. 64/91, in which the Tribunal directed the regularisation of services of K.V. Sadhanandam. Hence the claim of the petitioners are also to be ordered as prayed for by them on the ground that their claim is also on the same line as decided in I.D. 64/91. Once the claim of K.V. Sadhanandam has been accepted by the respondent management the respondent management has no locus standi to reject the claim of the petitioners. The respondent management without considering the serving employees for regularisation of their services with all the benefits have no right to recruit any person in the Class IV posts. The petitioners are entitled to claim for the regularisation of service with all benefits and seniority over the persons recruited after the petitioners were appointed. Petitioners pray to pass an award by giving suitable direction to the management for regularisation of services of the petitioners from the date of their recruitment with all benefits and seniority.

3. The main averments found in the counter statement filed by the respondent are as follows : The petitioners are not engaged in the respondent management as regular workers. In 1986 the respondent's Zonal office was shifted to its own premises No. 2, Haddows Road, Chennai 16 and during that time, the respondent needed some workers to do scavenging and sweeping work and to do these works, few people were engaged purely on temporary basis and those persons were utilised for day-to-day work

and at the end of the day the daily wages were paid. No order of appointment of any sort was issued and no employer employee relationship existed. Such persons were never given any assurance orally or in writing by the Corporation that they will be absorbed as permanent worker in the respondent and in view of that there was no need for the respondent to verify the credentials of the petitioners at the time of engaging them in the manner stated above on daily basis. The allegations of the petitioners that they were not regularised because they all belong to SC/ST are not correct, since no discrimination is made by the respondent. There is ban on recruitment in the respondent management except for appointment on 'compassionate grounds' to the dependants of the deceased employees and also on sports quota. The respondent has not made any appointment in any other quota except in the above two items and the allegations of the petitions that the respondent has been recruiting persons on whims and fancies is not correct. The petitioners were utilised as part-time sweepers and scavengers whenever required by the respondent and they were already paid for their work on daily basis. The respondent is not in a position to regularise the services of the petitioners due to ban on recruitment and most the petitioners are also being over aged. In the above said circumstances, the respondent was left with no other alternative except to effect retrenchment of the petitioners and the employees union were not agreeable to this proposal made by the respondent in the conciliation proceedings, the matter has been now referred to the Tribunal. The head quarters of the respondent corporation has totally banned the engagement of casuals from 2-5-86 in all the respondent's officers. The petitioners are engaged after the cut-off date. Recruitment of SC/ST candidates are made under Special Recruitment drive as per Government of India order to clear back log. Except appointment on compassionate basis, and sports quota and special recruitment drive, the respondent is not permitted to make any other appointment. The petitioners cannot equate their case with that of one K. V. Sadhanandam as decided in I.D. 64/91 by this Tribunal because that case is entirely different and the same cannot be compared with that of the petitioners. None of the petitioners submitted any application seeking for such appointment when the respondent was recruiting exclusively under special Recruitment Drive for SC/ST candidates and in view of that the Respondent could not consider their cases for appointment. Many of the petitioners are coming under the reserved category and nothing prevented them from responding to the notification and seeking appointment applied for the post. In that event the respondent would have been in a position to consider their application in the light of Supreme Court Judgment. On the other hand, the petitioners have preferred to keep quiet and seek regularisation which the respondent is not in a position to do so due to various reasons. Engagement of the petitioners are not made in accordance with the service rules, as such, they are not entitled for regularisation. The respondent prays to dismiss the claim.

4. On behalf of the petitioners, Ex. W-1 to W-4 was marked by consent. On behalf of the respondent Thiru Gopalan Kuffy, Assistant Manager (Industrial Relations) was examined as MW1 and M2 were marked.

5. The point for consideration is : Whether the demand of Shri M. Benjamin Bhaktaraja, Smt. Kvasanthi, R. Nagammal, Smt. S. Parvathi and Smt. S. Rajalakshmi for regularisation of their services against the management of Zonal Manager, Madras is justified or not? If justified. What relief the workmen are entitled to?

6. The point : The petitioners are engaged as casual labourers and also even or from 1986 onwards as mentioned in the claim statement. The fact that they have put in more than 10 years of continuous service is not denied by the respondent management. The petitioners allege that without regularisation of their service, the respondent is recruiting persons a Class IV employees and persons who have been recruited subsequently have been regularised in service and when the dispute was raised, the respondent management has offered retrenchment compensation. The contention of the respondent management is that there is a ban issued by the Government of India to engage casual labourers after 2-5-86, because of the ban their services cannot be regularised. Ex. M-1 is the circular dated 2-5-86 issued by the headquarters of the respondent management where in it is mentioned as follows :

"Reference is invited to this office circular No. 33 of 1986 dated 26th March, 1986 bearing file No. 4-3/80-EP which stipulated that no casual labour/worker may be appointed in the office of the Corporation for more than 7 days. Despite these instructions, it has been observed that various offices are engaging casual employees not only against casual work but also against regular job, and allowing them to continue in the services of the Corporation indefinitely.

2. The appointment and continuance of such workers for indefinite period without regularisation has been viewed very seriously. It has, therefore, been decided that henceforth. No person should be appointed on casual/daily rated/part-time basis in the offices/depos of the corporation by any authority. Any infringement of this order will attract disciplinary action against the defaulter."

Ex. M-2 is another letter dated 30-1-90 wherein the question of regularisation of part-time/daily rated sweepers/scavengers watchman was examined and the Board has decided as under :

The question of regularisation of part-time/daily rated sweepers/scavengers/watchman etc. was examined and a proposal was placed before the Board of Directors in its 203rd meeting held on 16-1-1990, and the Board has decided as under :

The proposal indicated in the agenda note was discussed in detail. It was agreed that only these casual/daily rated workers in South Zonal who were engaged upto 2-5-86 should be regularised, since after 2-5-1986, the Corporation imposed a ban on engagement of casual/daily workers. The regularisation of

such casual/daily rated workers should be subject to the following conditions as approved by the Board :

- (i) The Regularisation of the workers will be subject to fulfilling the requisite education qualification, age, experience etc. for the entry level Cat. IV posts. However, the age and educational qualification can be relaxed by the competent authority to the extent of the service rendered by these workers for the purposes of age.
- (ii) The regularisation is subject to withdrawal of Court/Tribunal cases, if any, filed by these workers.
- (iii) The regularisation will be with prospective date only.
- (iv) Out of the 706 posts of Watchman (Depot) Messengers and Peon vacant in the South Zone, 155 posts may be converted as Sweepers to accommodate those 155 casual daily rated workers.

Since the Board has not agreed for regularisation of about 33 persons, who were engaged after 2-5-1986 out of one hundred and fifty five, you are requested to take immediate necessary action to dispense with the services of these casual/daily rated workers by paying compensation under the Workmen's Compensation Act, 1947.

It is the abovesaid ban mentioned in Ex. M1 and M2 being the reason for not regularising the services of the petitioners as contended by the respondent management.

7. MF1, Thiru. Gopalan Kutty (Asst. Manager) (Industrial Relations) in course of his evidence has admitted that the petitioners are employed from the date mentioned in the claim statement and they are employed from 1986-87 till date continuously, that in 2 years they have worked continuously for 480 days and against the circular dated 2-5-86 Ex. M-1 the five petitioners were appointed after the issue of the circular and all other employees who were appointed as per M1 circular, have been regularised and services of all the employees who were recruited along with the petitioners or after the admitted evidence of the respondent's witness MW1 would show that the petitioners are working continuously for the last 10 years and all others who joined services alongwith them or after they have been made permanent by regularising their services but the petitioners alone have been left out. One such employee by name K. V. Sadhanandam has raised a dispute in I.D. 64/91 before this Tribunal and an award has been passed directing the respondent to regularise the services w.e.f. 30-9-86, with consequential attendant benefits. The award is Ex. W-1. The award of the Tribunal has been accepted by the management and they have issued Ex. W-2 office order regularising the services of the said Sadhanandam. Subsequently on 31-12-96, 127 Class IV employees have been promoted as Assistant Grade III 'D'. The contention of the petitioners that all these employees are junior in service when compared to the petitioners is not disputed by the respondent. The only contention of the respondent for not regularising the services of the petitioners is that they were recruited after the cut off date

2-5-86 on which date ban was imposed. If really the respondent wanted to give much importance to Ex. M1 ban order, they should not have at all recruited the petitioners. The recruitment itself is in violation of the ban order. Even if the petitioners have been recruited in violation of the ban orders to meet a contingency or emergency, there is no necessity for the respondent to keep them in service for more than 10 years. Therefore, the contention of the respondent that existence of ban is the reason for non-regularisation of the petitioners, is not sustainable.

8. The next contention of the respondent is that all these petitioners who belong to scheduled caste did not apply for regular post when applications were called for to recruit SC candidates as a special desire. The respondent has further contended that if petitioners had applied for the regular post in the special recruitment drive for SC/ST the petitioners would have been considered for regular appointment. When the respondent had conducted a special drive for recruitment of SC/ST, he could not lost sight of these petitioners who also belong to the same category and awaiting regularisation for 10 years. The failure on the part of the petitioners to apply for the Special Recruitment drive cannot be in excuse for the respondent for not regularising the petitioner's service. From the very date of appointment, the petitioners are employed continuously and they have put in more than 480 days of work even in the first two years. The petitioners are entitled to be made permanent under the confirmation of permanent Status Act. It is a statutory right for the petitioner to be made permanent but the respondent has failed to give effect to the said Act. There is no justification at all for the respondent-management to refuse regularisation of service of the petitioners.

In the result award passed holding that the demand of Sh. M. Benjamin Balatharaja, Class IV (Regional Office of FCI) Smt. K. Vasanthi, Sweeper; R. Nagam-mal, Sweeper, Smt. S. Parvathi Sweeper and Smt. S. Rajalakshmi of Zonal Office Food Corporation of India for regularisation of their services is justified and they are entitled for regularisation with back-wages from the date of their appointment with all attendant benefits and seniority. No costs.

Dated, this the 20th day of April, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal

WITNESSES EXAMINED

For the Petitioner—workman : None

For Respondent Management :

MW.1 : Thiru Gopalan Kutty.

DOCUMENTS MARKED

For Petitioner-workmen :

(xerox).

Ex. W-1/24-12-93 : Award in I.D. No. 64/91 ((xerox)).

Ex. W-2/28-10-94 : Office order of the respondent in No. E-1/1-5-94.

Ex. W-3/23-11-95 : Conciliation failure report (xerox).

Ex. W-4/31-12-96 : Promotion order (xerox).

revenue villages of Madepalli, Chataparu, Jalipudi and Malkapuram in Ehuru Mandal;

For Respondent-management :

Ex. M-1/2-5-1986 : Circular No. 28 of 1986 issued by FCI, Headquarters (xerox).

Ex. M-2/30-1-90 : Letter from FCI, Headquarters (xerox).

Ex. M-3/11-2-99 : Authorisation letter to give evidence before I.T. Chennai (copy).

(ii) Revenue villages of Vangaru in Pedavegi Mandal;

(iii) Revenue village of Dendulur in Pedapadu Mandal in West Godavari District in Andhra Pradesh.

[No. S-38013/10/99-SS-I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, दिनांक 15 जुलाई, 1999

का.ग्रा. 2205.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 अगस्त, 1999 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“निम्न क्षेत्रों की गंगाओं के अन्तर्गत आने वाले सभी क्षेत्र:—

- (1) राजस्व ग्राम एलुरु, ब्लॉक-1, ब्लॉक-2, ब्लॉक-3 एवं वेंकटपुरम पंचायत में आने वाले राजस्व ग्राम मादपल्ली, छत्तापारु, जलीपुडी एवं मल्कापुरम ।
- (2) पेडावेगी मण्डल में आने वाला राजस्व ग्राम वल्लुगु ।
- (3) पश्चिम गोदावरी जिले के पेडापाडु मण्डल के अन्तर्गत राजस्व ग्राम देन्दुलुर ।”

[सं. एम-38013/10/99-एल.एस.-I]

जे.पी. शुक्ला, अवर सचिव

New Delhi, the 15th July, 1999

S.O. 2205.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st August, 1999 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :

- (i) 'All the area falling within the limits of Revenue villages of Eluru Block-I, Eluru Block-II and Eluru Block-III and forming part of Venkatapuram Panchayat and the

नई दिल्ली, 16 जुलाई, 1999

का.ग्रा. 2206.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 अगस्त, 1999 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

“जिला रंगारेड्डी के (i) राजेश्वर नगर मण्डल के अन्तर्गत राजस्व ग्राम हैदरशकोटा, बन्दगा गुडा जागीर, कोकापेट, मन्चिरेबुला, गांधीपेट और (ii) नर्सिंगी एवं मोहनबाद मण्डल के अन्तर्गत अजीजनगर राजस्व ग्राम के अन्तर्गत आने वाले क्षेत्र ।”

[सं. एम-38013/11/99-एम.एस.-I]

जे.पी. शुक्ला, अवर सचिव

New Delhi, the 16th July, 1999

S.O. 2206.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st August, 1999 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“All the areas falling within the limits of revenue villages of (i) Hydershakota, Bandlaguda Jagir, Kokapet, Manchirevula, Gandipet and (ii) Nursingi in Aziznagar in Moimabad Mandal of Rangareddy District of Andhra Pradesh.”

[No. S-38013/11/99-SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 5 जुलाई, 1999

का.आ. 2207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबंधकों के संवर्धन नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 2-7-99 को प्राप्त हुआ था।

[सं.एल-12012/409/96-आई. आर. (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 5th July, 1999

S.O. 2207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 02-7-99.

[No. L-12012/409 96-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No 3(c) of 1998

Management of Central Bank of India, Patna and their workman represented by General Secretary Bank Employees' Federation, Patna.

For the Management : Sri M. K. Mishra, Assistant Manager, Regional Office, Gaya.

For the workman : Sri B. Prasad, General Secretary, Bank Employees Federation Patna.

PRESENT :

Sri T. L. Verma, Presiding Officer, Industrial Tribunal Patna.

AWARD

The 28th June, 1999

The Government of India, Ministry of Labour has, by notification No. L-12012/409/96/IR(B-II) dated 6/8-1-1998 referred the following dispute between the management of Central Bank of India, Nathnagar, Bhagalpur and Sri Dinanath Tewary for adjudication to the Industrial Tribunal, Patna. The terms of reference, referred for adjudication are as follows :—

"Whether the action of the Management of Central Bank of India, Nathnagar (Bhagalpur) in stopping the annual increments and withholding the salary and allowances of Sri Dinanath Tewary is proper legal and justified? If not, to what relief the said workman is entitled and from what date?"

2. The facts giving rise to this industrial dispute are :—

The workman Dinanath Tewary while working as Daftary (sub-staff) at Bhagalpur branch of Central Bank of India requested the Bank to promote him straight way as clerk as he had passed Uttar Madhyam Examination of Kameshwar Singh Darbhanga Sanskrit University in first division as provided under the provisions of Para 9(2) of promotion policy of the Bank. He also submitted a letter dated 21/4/99—19

8-11-1977 declaring to have passed the aforesaid examination in the First Division. On the basis of this representation made by the workman the management allowed him straight way promotion in clerk grade by order dated 8-11-1977. The information furnished by the workman Dinanath Tewary was subsequently found to be incorrect and it was found that Sri Tewary had passed the said examination in Second Division and his declaration that he had passed in First Division was false. Accordingly proceeding was initiated against him by order dated 25-11-1981 on the following charges :—

"1 While working as Daftary (sub-staff) at our Bhagalpur Branch Sri Tewary requested the Bank, vide his representation dated 25-6-1977 to promote him straightway as clerk, declaring himself to have passed Uttar Madhyama Examination of Kameshwar Singh Darbhanga Sanskrit University, in First Division. He sought his promotion invoking provisions of para 9(2) of Promotion policy of the Bank. He also submitted attested copies of the mark-sheets of the said examination for the year 1973 and 1975. He further submitted a letter dated 8-11-1977 again declaring himself to have passed the said examination in first Division, enclosing therewith an attested copy of a certificate dated 4-6-1976 purporting issued by the aforesaid University declaring Sri Tewary to have passed the Uttar Madhyama Examination in First Division in 1973. This was submitted by him to Regional Authorities directly. On his such declaration, the management allowed him straightway promotion in Bank's clerical cadre vide order No. DMO Staff 77/2387 dated 11-11-1977 issued by Divisional Office, Gaya.

It has been found that Sri Tewary had passed the said examination in second division and his declarations that he had passed the examination in First Division were found false. The certificate dated 4-6-1976, xerox copies whereof has been submitted by him to the Bank was also found to be false Sri Tewary has, thus, obtained promotion from subordinate cadre to Clerical cadre on the basis of false declarations and certificate.

2 Sri Tewary passed the General Examination in 1973 as per marks sheet dated 30-8-1973 and the examination in single subject i.e. Arithmetic in 1975 as per mark-sheet dated 26-10-1975 submitted by him. He, vide his letter dated 9-12-1975 requested the Bank to allow him to appear at VIth All India written test for promotion from sub-staff to clerical cadre, which was allowed vide Bhagalpur Branch letter dated 6-11-1976. Sri Tewary could not be successful in the said promotion test and after a lapse of another one year, he preferred to obtain promotion through foul means as stated above. Had Sri Tewary passed the said examination in First Division, he would not have remained silent after 30-8-1973 and would not have felt necessary to appear at the written test for promotion. Sri Tewary thus, cheated the Bank to get himself promoted from subordinate cadre to clerical cadre. He is, therefore, charged for having committed acts which are grossly prejudicial to the interest of the Bank and are acts of gross misconduct within the meaning of para 19.5(d) of the Bi-partite settlement 1966 and which are punishable under the provisions of para 19.6 of the said Settlement."

3. Shri K. N. Kool, D.C.O., Division Office, Gaya was appointed as the Enquiry Officer. The Enquiry Officer after giving due opportunity to the respective parties to submit their case has submitted his report on 13-12-1988 finding the delinquent workman guilty on both counts. The Disciplinary Authority by order dated 13-12-1988 accepted the report of the Enquiry Officer and ordered for stopping three increments permanently as punishment under para 19.6(d) of the Bipartite Settlement which will have the effect of postponing his future increments. The Appellate Authority has affirmed the decisions of the Disciplinary Authority of permanently withholding of three increments of the delinquent workman.

by order dated 28-11-1985. The workman, thereafter, challenged the correctness of the departmental proceeding and punishment by raising industrial dispute which has been referred for adjudication to this Tribunal.

4. The Management has resisted the claims of the workman. In the written statement filed on behalf of the management, inter alia, it has been stated that the workman obtained promotion on the basis of false and fabricated certificate which amounts to gross misconduct. The further case of the management is that the Disciplinary proceeding was initiated against the workman for having obtained promotion of the clerk grade by making false declaration and by producing false certificate. The Enquiry Officer, duly appointed by the competent authority to hold domestic enquiry, has found the workman guilty of the charge framed against him. The disciplinary authority after accepting the report of the Enquiry Officer passed the impugned punishment. The order of punishment passed by the Disciplinary Authority has been upheld by the Appellate Authority. The Management has asserted that the evidence on record is sufficient to substantiate the charges framed against the delinquent workman.

5. The workman has assailed the correctness of the findings recorded by the Enquiry Officer mainly on the grounds that the declaration made by him was based on the certificates issued by Kameshwar Singh Darbhanga Sanskrit University which the University Authorities subsequently found to have issued incorrectly showing the workman having passed Navinottar Madhyama Examination in First Division. In other words the workman has pleaded bonafide in submitting the certificate showing him to have passed such examination in the First Division believing the same to be true. The other ground on which the validity of the punishment imposed has been challenged is that the officer who passed the punishment order not the disciplinary Officer at the time the order was passed. Shri Tripathy, passed the impugned order at Chandigarh after transfer from Gaya Division. It is submitted that the successor of Shri Tripathi stepped into his shoes on taking charge as Divisional Manager, Gaya from Sri B. A. Tripathi. At the time impugned order of punishment was passed, Sri Tripathi had ceased to be Divisional Manager, Gaya. Therefore, the punishment order passed by him is without jurisdiction and can not be sustained.

6. The facts and submissions made as mentioned above are clear enough to suggest that the delinquent workman does not deny to have submitted certificates showing him to have passed Navinottar Madhyama Examination in First Division. His case is that the certificate submitted by him had actually been issued by the university. Therefore, the only question that falls for consideration is whether the certificate submitted by him had actually been issued by the University or he had forged the same. The Enquiry Officer has on consideration of the documents and circumstances on record come to a conclusion that the delinquent workman had forged the certificate by erasing 'Second Division' and writing 'First Division' in its place.

7. Before entering into the facts and merits of the reference it has to be seen to what extent this Tribunal can interfere with the findings recorded by the Enquiry Officer. Before incorporating section 11A to the Industrial Disputes Act the law as laid down by the Supreme Court, in *Indian Iron & Steel Co. Ltd. Versus their workmen*, AIR 1958 (SC) 130, was that the Tribunal does not act as a court of appeal and substitute its own judgement for that of the management and that a Tribunal would interfere if there is want of good faith, victimisation, unfair labour practice etc. on the part of the Management. Section 11A of the Industrial Disputes Act however provides that the Labour Court, Industrial Tribunal or National Tribunal, where the industrial dispute relating to the discharge or dismissal of the workman has been referred, can in course of adjudication proceeding, if satisfied, that the order of discharge or dismissal was not justified by its award set aside the order of discharge or dismissal after re-appraising the evidence adduced in enquiry.

8. In yet another case workman of Firestone Tyre and Rubber Co. of India Pvt. Ltd. versus The Management-1973 Lab. I.C. 851 the Hon'ble Supreme Court has held that when enquiry was conducted fairly and properly in the absence of allegation or of victimisation or mala fide or unfair labour

practice, Labour Court, Industrial Tribunal or National Tribunal has no power to interfere with the punishment imposed by the management. It would, thus, appear that in cases where section 11A of the Act is not applicable the Labour Court has no power to re-appraise the evidence to find out whether the findings recorded by the Enquiry Officer are correct or not or whether the punishment imposed is adequate or not. The Labour Court, Industrial Tribunal or National Tribunal as the case may be, may however, interfere with the findings if it is found that the findings recorded by the Enquiry Officer is perverse.

9. In the instant case the punishment imposed is withholding of increments. The case of the workman, therefore, does not attract the provisions of section 11A of the Act. In view of the position of law this Tribunal can interfere with the findings of the Enquiry Officer only if it is found that the same is perverse.

10. Of the two main grounds canvassed by the workman to challenge the validity of the punishment imposed, pertains to the jurisdiction of the Disciplinary Authority to impose the impugned punishment. The ground on which authority of the Disciplinary Authority to impose punishment has been questioned is that he had ceased to be the Disciplinary Authority at the time the impugned punishment was imposed as he had been transferred to Amritsar Division and he had joined there. Admittedly Sri R. A. Tripathi had been transferred to Amritsar Division from Gaya Division. The Management has neither filed Rules nor Bipartite Agreement or Regulations framed in that behalf to suggest that Disciplinary Authority once appointed carries the power of Disciplinary authority to where ever he is transferred. In view of this it is difficult to support the contention of the learned representative of the Bank that as the Disciplinary proceeding was completed during the tenure of Shri R. A. Tripathi the Enquiry Officer was justified in placing the enquiry report before him even after his transfer to Divisional Office Amritsar is legal and valid.

11. The representative of workman has made a Book on Disciplinary Action and Proceeding available. The genuineness of the book is not in doubt. The ~~service conditions and disciplinary proceeding of workman and Award staff of the Bank and governed by different award and bipartite settlements arrived at from time to time.~~ The Book on Disciplinary Action and proceeding referred to above was perhaps of 1980-81 and it has been prepared on the basis of bipartite negotiation whereby certain changes in the procedure in regard to disciplinary action against award staff have been agreed upon. Para 2.1 of the book provides that the disciplinary action for the award staff at the various offices of the Bank would ordinarily be as given in the Schedule appended thereto. According to the first para of the Schedule Divisional Manager of the concerned Division is Disciplinary Authority for award staff working within the jurisdiction of the Division Office i.e. staff at Branches within the Division and Division Office staff. The second paragraph of the Schedule states that Chief Manager at the Regional Office of the concerned region shall be Disciplinary Authority for award staff working within the jurisdiction of the Regional Office i.e. Staff at the Branches under the direct control of the Regional Office, staff working at the training centre and staff working in the Chief Internal Auditor's Office. Para 3 of the Schedule provides that that Chief Manager Incharge of the Personnel Administration at the Bombay Main Office shall be the Disciplinary Authority for the award staff working in the Bombay Main Office and last para of this Schedule provides that Chief Manager (IR), Central Office shall be Disciplinary Authority for award staff working within the jurisdiction of Central office i.e. staff working under control of Central Office, staff at S.T.D.T. college and staff at Training centre Marine Lines.

12. The different clauses of para 2.1 of Book is mentioned in the proceeding Paragraph leave no room for doubt that the jurisdiction of the different Disciplinary Authorities is confined to their respective Division or office as the case may be in which they are posted.

13. Similarly para 12.1 which pertains to the Disciplinary Authority in respect of office staff provides that the jurisdiction of the disciplinary authorities mentioned in the Schedule appended thereto shall be restricted to their respective area of operation.

14. Para 7 of the Book deals with general principles regarding enquiry procedure. Para 7.4 requires that the enquiry officer after considering oral and documentary evidence would draw a conclusion as a rational and prudent person would and should and thereafter forward to the Disciplinary Authority the records of the enquiry including the report.

15. After the enquiry report is received by the Disciplinary Authority the Disciplinary Authority will examine the findings recorded by the Enquiry Officer with reference to the evidence adduced during enquiry by respective Parties and pass necessary orders. The Disciplinary Authority may disagree with the findings recorded by the Enquiry Officer and on fresh appraisal of the evidence come to an independent finding or remit the case for further enquiry. In the event the disciplinary authority is of opinion that the charges have been proved, he may pass the order of punishment commensurate to the gravity of the misconduct alleged and proved.

16. I have perused the entire book on Disciplinary Action and Proceeding and I do not find any provision therein to indicate that entire gamut of departmental enquiry must be conducted from beginning to the end by only one Disciplinary Authority and that the competent Disciplinary Authority who initiated the proceeding can not be replaced in midstream by another equally competent Disciplinary Authority.

17. In this connection it may be also pertinent to mention that the effective role of Disciplinary Authority begins after the charges are framed and enquiry officer is appointed to hold begins and enquiry report is submitted. In the event the Disciplinary Authority is transferred before submission of the enquiry report and equally competent authority joins in his place, in my opinion, no prejudice will be caused to the delinquent employee if the enquiry report is placed before the new incumbent because the disciplinary authority is under an obligation to examine the evidence and come to a reasonable conclusion with regard to the charges on his independent appraisal of the evidence adduced in course of enquiry. In this view of the matter also exercise of power of disciplinary authority by Sri P.A. Tripathi after his transfer and assuming charge as Divisional Manager, ~~Amritsar~~ Division does not appear to be legal and valid.

18. In view of the discussions in the preceding paragraphs and having regard to the fact that the Schedule appended to Para 2.1 of the Book on Disciplinary Action and Procedure restrict the jurisdiction of the disciplinary authority to the concerned Division. Shri Tripathi ceased to be Disciplinary Authority of Gaya Division so he could not have exercised the power of Disciplinary Authority in respect of the workman Dinanath Tewary of Gaya Division and passed the impugned order of punishment. The impugned order of punishment is, therefore, invalid and without jurisdiction.

19. In the normal course, because of the long lapse of time from the date of initiation of disciplinary proceeding, the disciplinary proceeding would have been quashed and the workman would have been allowed to assume charge as if no order of punishment had been passed. But in view of the nature of misconduct alleged it would be in the interest of justice and administration that the matter be remitted to the management for placing the disciplinary proceeding file and relevant papers connected therewith before Disciplinary Authority having jurisdiction over award staff of concerned Division for passing fresh order according to law.

20. In view of the foregoing conclusion I would refrain from recording any finding as to the correctness or otherwise of the findings recorded by the enquiry officer as the same may preempt the decision of the Disciplinary Authority to whom the matter is being remitted for passing fresh order.

21. In the facts and circumstances discussed above the orders dated 21-5-1984 and 1-6-1984 withholding three increments of the workman Dinanath Tewary permanently are hereby set-aside and the dispute is remitted for being placed before the Divisional Manager, Gaya Division for passing fresh order according to law.

22. This is my Award

T. L. VERMA, Presiding Officer

नई दिल्ली, 8 जून, 1999

का.आ. 2208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-6-99 को प्राप्त हुआ था।

[सं. एल.-12012/320/96-आई.आर. (बी.-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 8th June, 1999

S.O. 2208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 7-6-99.

[No. L-12012/320/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर।
पीठासीन अधिकारी:—श्री चन्दमल तोतला, आर.एच.जे.
एस. श्री. विवाद (केन्द्रीय) संख्या:—12/1997
श्री घनश्याम थानवी पुत्र श्री श्यामलाल थानवी निवासी
कबूतरों का चौक, मनिहारों की हवेली, गुलाब भवन,
जोधपुर।

... प्रार्थी

बनाम

ग्रॉस मैनेजर, यू.को. बैंक, जोधपुर।

... अप्रार्थी

उपस्थिति:—

- (1) प्रार्थी की ओर से श्री विजय मेहता प्रतिनिधि उप.
- (2) अप्रार्थी की ओर से श्री पद्मराज मेहता प्रबन्धन प्रतिनिधि उप.

अभिनिर्णय

दिनांक 19-5-1999

श्रम मंत्रालय भारत सरकार की विज्ञापन सं. एल. 12012/320/96/आई.आर. (बी.-II) दिनांक 18-8-97 से श्रमिक कर्मचारी तथा उसके नियोजक के मध्य उत्पन्न हुआ निर्णायक विवाद इस औद्योगिक न्यायाधिकरण को अभिनिर्णय हेतु प्रेषित किया गया तथा दिनांक 15-11-97 को निश्चित विवाद संख्या 12/97 पंजीकृत हुआ:—

"Whether the action of the Branch Manager in terminating the service of Shri Ghanshyam w.e.f. 2-3-93 is legal and justified and proper? If not, what relief is entitled to the concerned workmen?"

उपरोक्तानुसार विवाद दिनांक 2-3-93 से प्रार्थी की की गई कथित सेवामुक्ति की वैधानिकता में संशोधित है तथा प्रार्थी श्रमिक धनधायाम ने इसे अनूचित व अवैधानिक बताते हुए प्रस्तुत किये गये अपने मांग-पत्र में प्रकट किया है कि उसकी नियुक्ति यू.को. बैंक में जोधपुर सोजनीगेट शाखा में मैनेजर द्वारा वेतन भोगी श्रमिक पर की गई तथा उसने चपरासी, थक लिप्टर, मैनेजर, डाक कलकट करने रखावि व अन्य काम किया जाता था एवं नियोजन में रखते समय उसे कहा गया था कि उसका नाम बदल-बदल कर सेवा में रखा जायेगा तथा चूंकि प्रार्थी बेरोजगार था अतः उसने इस पर आपत्ति नहीं की। आवेदन के पैरा संख्या-1 में प्रार्थी अपनी सेवा अवधि तथा जिस नाम से उससे कार्य कराया गया वह नाम बताये हैं। तथा इस विवरण के अनुसार प्रार्थी स्वयं श्री धनधायाम के नाम से वर्ष 1990 में 120 दिन, 1991 में 7 दिन व अगस्त, 92 से मार्च 1993 तक 254 दिन कार्य किया गया। आवेदन में बताया गया है कि धनधायाम के अतिरिक्त बाकी जिन उल्लेखित नामों से प्रार्थी में कार्य कराया गया वे सब नाम काल्पनिक हैं तथा प्रार्थी से डाक संगवार्ड जार्ज थी जिसपर समय-समय पर विपक्षी ने पोस्ट ओफिस को पत्र भी लिखे थे। बताया गया कि दिनांक 2-3-93 के मौखिक आदेश से प्रार्थी को सेवा में अटक कर दिया गया तथा गवामुक्ति से पूर्व इरीयता सूची प्रकाशित नहीं हुई। प्रार्थी कतिपयतम श्रमिक नहीं था छंटनी की सूचना राज्य सरकार को नहीं दी गई। बाद में नई नियुक्ति दी गई लेकिन प्रार्थी को पुनर्स्थापन का प्रस्ताव नहीं दिया गया एवं सेवा समाप्ति पर एक माह का नोटिस एवं नोटिस वेतन तथा क्षतिपूर्ति अदा नहीं की गई न ही ऐसी क्षतिपूर्ति अदायगी प्रस्तावित की गई। उपरोक्त आधारों पर बताया गया कि प्रार्थी सेवा में पुनर्स्थापित होने तथा सम्पूर्ण अवधि के वेतन व अन्य लाभ प्राप्त करने का अधिकारी है जिसका एवाड दिये जाने की प्रार्थना की गई।

आवेदन के साथ में एक परिशिष्ट प्रस्तुत कर बताया गया कि दृग आवेदन का भाग मनसा जावं तथा परिशिष्ट में जिन कथित नाम से कार्य कराया गया वह नाम तथा किये गये पारिश्रमिक का विवरण दिया गया है।

विपक्षी के उत्तर के अनुसार प्रार्थी को मौखिक या लिखित नियुक्ति नहीं दी गई तथा उसे नियुक्त ही नहीं किया गया बल्कि अवैधानिक आवश्यकता होने पर प्रार्थी को कार्य पर रखा गया। उत्तर में बताया गया है कि प्रार्थी ने स्वयं की इच्छानुसार स्वयं के नाम से दैनिक वेतन पर काम किया तथा अन्य नाम से प्रार्थी से कभी भी कार्य नहीं कराया गया न ही अन्य नाम से प्रार्थी ने कार्य किया। उत्तर में बताया गया है कि प्रार्थी ने कभी भी 240 दिन कार्य नहीं किया अतः किसी प्रावधान की पालना किया जाना आवश्यक नहीं था तथा प्रार्थी विपक्षी संस्थान का कर्मचारी भी नहीं है। यह भी प्रकट किया गया है कि किसी प्रक्रिया या नियमों की पालना करके प्रार्थी को कार्य पर नहीं लगाया गया था। सम्माननीय उच्चतम न्यायालय की व्यवस्था ए.आर.

आर. 1992 789, व 2130 का उल्लेख करते हुए बताया गया कि प्रार्थी गैरों कानूनी तरीके में नौकरी प्राप्त करना चाहता है। व्यय सहित मांग अस्वीकार किये जाने की प्रार्थना की गई।

साक्ष्य में प्रार्थी की ओर से स्वयं प्रार्थी धनधायाम का शपथ-पत्र प्रस्तुत किया गया जिसमें आवेदन में अंकितानुसार बताया गया—विपक्षी की ओर से श्री पद्मराज मेहता प्रबन्धक का शपथ-पत्र प्रस्तुत किया गया जिसमें उत्तर के अनुसार बताया गया।

प्रार्थी की ओर से विपक्षी संस्थान के 31-3-90 के परिपत्र तथा सम्माननीय उच्च न्यायालय की रिट याचिका संख्या 2590/93 में दिनांक 12-2-96 के आदेश की प्रमाणित प्रतिलिपि को प्रतिलिपि प्रस्तुतकी गई तथा प्रार्थी को किये गये कुछ भुगतान व बाऊषरों की प्रतिलिपियां तथा बैंक के डाक संबंधी पुस्तिका की प्रतिलिपियां व इपी तरह के अन्य दस्तावेजों की प्रतिलिपियां प्रस्तुत की गई।

उभयपक्ष के प्रतिनिधीगण के तर्क सुने गये—पक्षावर्तों का अवलोकन किया गया।

प्रस्तुत किये गये तर्कों व तथ्यों को देखते हुए सर्वप्रथम प्रार्थी को कार्य अवधि व कार्यदिवसों के लिए विचार करना उपर्युक्त है तथा जिसमें यह पूर्व देख लिया जाना चाहिए कि क्या प्रार्थी में अन्य किसी नाम से अर्थात् कार्य करने वाले का और कोई नाम अंकित कर कार्य कराया गया—यहां प्रार्थी का ऐसा कहना मानने योग्य है।

विपक्षी यूनाइटेड कार्माशियन बैंक भारत सरकार का एक उपक्रम है तथा आवेदन में ही इसे बैंकिंग संस्थान बताया गया है। अतः स्पष्ट प्रकट होता है कि विपक्षी एक ऐसा संस्थान है। जहां नियमित तौर से मुख्य कार्य नकद धन राशि लेन-देन करना होता है। ~~अर्थात् धन राशि से संबंधित कार्य होता है। ऐसी परिस्थिति में यह निष्कर्ष लेने में कोई हिचकिचाहट नहीं हो सकती कि संबंधित रिकार्ड नियम व प्रक्रिया अनुसार नहीं रखा जाता हो तथा जब तक अत्यधिक मजबूत तथ्य नहीं हो यह मानने में शिथिलता होनी चाहिए कि संबंधित प्रविष्टियों व नाम गलत हैं।~~

प्रार्थी के अनुसार भिन्न-भिन्न नाम लिखकर उससे कार्य कराया गया। शपथ-पत्र के पैरा सं. 1 व आवेदन के पैरा सं. 1 के अनुसार जिन कथित नामों से उसने काम कराया गया उसका विवरण दिया गया है जिसके अनुसार वर्ष 1990 से मार्च 1992 की अवधि में प्रार्थी के सही नाम के अलावा 12 अन्य नाम से कार्य कराया गया। उल्लेखनीय है कि इस सम्पूर्ण अवधि में ऐसे अन्य नामों से जो कार्य कराया पैरा में बताया जाता है उसके कुल कार्यदिवस 324 होते हैं। प्रार्थी स्वयं के नाम से जिन दिनों में कार्य करना बताया जाता है उन दिनों की संख्या 381 आती है जिसमें से भी 254 एक साथ 7-4-92 से 2-3-93 तक बताये गये हैं तथा 120, 1990 में एक साथ बताये गये हैं। जब प्रार्थी ने उपरोक्तानुसार 240 दिन में अधिक दिवस कार्यदिवस एक साथ बताये गये हैं तो यह नहीं माना जा सकता कि पहले भिन्न नामों से कार्य कराया गया। यह उल्लेखनीय है कि जो भिन्न नाम बताये गये हैं उनमें से राजकुमार नाम के व्यक्ति से ही वर्ष 1992 में प्रारम्भ में 63 तथा वर्ष 1991

में 140 दिन तथा वर्ष 1990 में 72 दिन कार्य करना बताया गया है। एक ही नाम के व्यक्ति से इतनी लम्बी कार्य अवधि बताया जाना—यदि वह व्यक्ति वास्तव में कार्य नहीं करता था तो कोई कारण नहीं था क्योंकि इस नाम के व्यक्ति के नाम के कार्यदिवस भी काफी अधिक हो जाते हैं। प्रार्थी ने प्रतिपरीक्षण में बताया है कि उससे हमारे नाम से काम करते थे। जब भी पोस्टमास्टर से डाक लाने का काम करता था तो पोस्ट मास्टर वो असल नाम घनश्याम सहित बताते थे। विपक्षी के प्रबन्धक श्री पदमराज मेहता को साक्ष्य में ऐसा कुछ प्रकट नहीं हुआ है जिससे यह संवेह उत्पन्न हो सके कि भिन्न नामों से काम कराया जाता था। इन सब तथ्यों को देखते हुए यह किसी तरह से नहीं माना जा सकता कि काम वास्तव में प्रार्थी से कराया जाता था या प्रार्थी द्वारा किया जाता था जब कि नाम किसी अन्य का अंकित किया जाता था।

अतः कार्य अवधि व कार्य अवधि निर्धारण में प्रार्थी के नाम से किये गये कार्य के अनुसार ही निष्कर्ष लिया जाना है। प्रार्थी के शपथ-पत्र तथा आवेदन के अनुसार श्री घनश्याम ने वर्ष 1990 में 120 दिन, 1991 में 7 दिन तथा फिर 7-4-92 से 2-3-93 तक 254 दिवस कार्य करना बताया गया है। 1990 व 1991 के कार्य-दिवसों को शामिल कर लें तब भी कार्यदिवस 127 से अधिक नहीं होंगे। राजपत्रित अवकाश व इसी प्रकार के अवकाशों का लाभ दिया जावे तब भी किसी भी परिस्थिति में दिवस 150 से अधिक नहीं होते हैं। वर्ष 1990 से पहले कभी भी कार्य नहीं किया, उसके बाद में सन् 92-93 में ही कार्य किया है अर्थात् इन कार्यदिवसों के मध्य कोई अन्तराल है अतः सन् 1990 में किये गये कार्य तथा 1992-93 के कार्य कर आपस में सम्बन्ध या इस सेवा को लगातार नहीं माना जा सकता एक वर्ष या अधिक सेवा अवधि के निर्धारण के लिए महत्व के कार्यदिवस सन् बारह माह के ही होते हैं।

प्रार्थी ने 7-4-92 से 2-3-93 तक उसके 254 कार्य-दिवस होने बताये हैं तथा आवेदन के साथ संलग्न परिशिष्ट में उमे दिये गये भुगतान का विवरण भी दिया गया है जिसके अनुसार उमे प्रतिदिन 30 रुपये की दर से भुगतान किया जाता था—विवरण को देखने से ऐसा प्रकट होता है कि रोज के रोज भुगतान कर दिया जाता था—यह प्रतीत होता है कि कुछ रविवार व इसी तरह के अवकाश को कार्य-दिवसों में शामिल कर लिया गया है। परन्तु तमाम रविवार नहीं किये गये हैं। चूंकि उन दिनों का भी भुगतान होना बताया गया है अतः यदि भुगतान हुआ है तो उनको निश्चित तौर से कार्य दिवस मानना होगा।

विपक्षी के प्रबन्धक के शपथ-पत्र के अनुसार प्रार्थी को बैंक में आकस्मिक आवश्यकता होने पर रखा गया तथा प्रार्थी ने दैनिक वेतन पर ही इच्छानुसार कार्य किया—कार्य अवधि या कार्यदिवसों के लिए शपथ पत्र में कोई भी तथ्य

अंकित नहीं किया गया है। प्रबन्धक ने प्रतिपरीक्षण में बताया है कि प्रार्थी ने 7-4-92 से 2-3-93 तक कार्य नहीं किया परन्तु गवाह यह नहीं बता सका कि इन अवधि में प्रार्थी ने कितने दिन कार्य किया—विपक्षी के प्रबन्धक के अनुसार प्रार्थी ने कितने दिन कार्य किया यह बताना सम्भव नहीं है तथा वह यह बताने की स्थिति में नहीं है कि प्रार्थी ने कार्य भी किया या नहीं किया—साथ ही गवाह ने यह भी—कहा है कि शपथ-पत्र में सभी तथ्य उपलब्ध रिकार्ड के आधार पर लिखे हैं एवं प्रार्थी ने जो कार्य व भुगतान का विवरण प्रस्तुत किया है उसकी रिकार्ड में पुष्टि नहीं हो सकती क्योंकि पुराने याऊचर रिकार्ड अस्त-व्यस्त होने के व इसी तरह के कारणों से मिल नहीं पाया। इस तरह यह कहा जा सकता है कि प्रार्थी ने जो कार्य अवधि व कार्य-दिवस बताये हैं उसके विपरित विपक्षी की कोई साक्ष्य नहीं है।

अतः 7-4-92 से 2-3-93 तक की अवधि में अर्थात् बारह माह में प्रार्थी का 240 दिन से अधिक 254 दिन कार्य करना प्रमाणित होता है अर्थात् प्रार्थी की सेवा एक वर्ष से अधिक अवधि से लगातार होना प्रमाणित है।

विपक्षी की ओर से बताया गया कि प्रार्थी इच्छानुसार कार्य करता था—विपक्षी के गवाह ने कहा है कि प्रार्थी ने स्वयं की इच्छानुसार कार्य किया तथा वर्ष 1997 में सभी दैनिक वैतनिक कर्मचारी रखना समाप्त कर दिया गया है जब प्रार्थी अप्रैल 1992 से मार्च 1993 तक लगभग प्रत्येक कार्य-दिवस पर कार्यरत था तो बिना किसी कारण के उसके द्वारा कार्य बन्द कर देने का नहीं माना जा सकता—अतः ऐसा हुआ तो इसके विनिष्ट कारण/परिस्थितियां होनी चाहिये तब ऐसी कोई परिस्थितियां व कारण रहे हैं तो प्रकट नहीं किये गये हैं। विपक्षी का गवाह जो प्रस्तुत हुआ है वह सन् 1990 से 1992 तक इस शाखा में नियुक्त नहीं था अतः यह नहीं माना जा सकता कि प्रार्थी ने स्वयं की इच्छा से कार्य करना छोड़ दिया।

विपक्षी के गवाह ने प्रतिपरीक्षण में यह बताया है कि बैंक की इस शाखा में कितने दैनिक वैतनिक कर्मचारी कार्य कर रहे थे उसे पता नहीं है तथा वरियता सूचना नहीं बनाई गई क्योंकि नियुक्ति-पत्र ही नहीं दिये गये थे। गवाह यह भी नहीं बता सका कि ऐसे कितने कर्मचारियों की सेवाएं समाप्त की गई—केवल यह बताया है कि वर्ष 1997 में ऐसे दैनिक वैतनिक कर्मचारी रखना समाप्त कर दिया है।

इस तरह यह प्रमाणित है कि प्रार्थी की सेवा समाप्त करने पर उमे नोटिस या नोटिस वेतन व अतिपूर्ति अदायगी नहीं की गई।

प्रतिनिधी प्रार्थी ने तर्क दिया है कि धारा 25-एफ का उल्लंघन करते हुए प्रार्थी की सेवा समाप्त की गई अतः प्रार्थी को सेवा में पुनर्स्थापित किया जाना चाहिये। प्रतिनिधी विपक्षी ने तर्क दिया है कि प्रार्थी को आकस्मिक तौर से आकस्मिक कार्य पर रखा गया था तथा उनकी कोई

नियम व प्रक्रिया अनुसार नियुक्ति नहीं की थी—वर्ष 97 में ऐसा कोई कर्मचारी नहीं है तथा यह अन्यथा रास्ते से नौकरी प्राप्त करने का प्रयास मात्र है। यह भी बताया गया कि विपक्षी संस्थान की वित्तीय स्थिति ठीक नहीं है। इन तर्कों के समर्थन में सम्माननीय उच्चतम न्यायालय की व्यवस्था ए.आई.आर. 1992-789-देहली डेवलपमेंट होर्टिकल्चर एम्प्लोईज यूनियन बनाम देहली एडमिनिस्ट्रेशन व ए.आई.आर. 1992 सुप्रीम कोर्ट-2130-स्टेट ऑफ़ हरियाणा व अन्य बनाम प्यारामिह व अन्य प्रस्तुत की गई जिनका आदर-पूर्वक अवलोकन किया।

विचार किया गया। प्रार्थी की सेवाएँ एक वर्ष से अधिक अवधि से लगातार थीं अतः सेवा समाप्ति पर 25-एफ की पालना किया जाना परम आवश्यक था। इसके साथ ही यह ध्यान में रखा जाना है कि विपक्षी भारत सरकार का एक उपग्रह है अर्थात् नियोजन के लिए लगभग राज्य या संघ के समक्ष है, राज्य के अधीन दैनिक वैतनिक कर्मचारी तथा उनके कार्य व पदसृजन के लिए सम्माननीय उच्चतम न्यायालय ने निम्नांकित न्याय दृष्टांतों में विभिन्न सिद्धांत प्रतिपादित किये हैं :—

- (1) 1997 (3) सुप्रीम-737-उच्चतम न्यायालय-हिमांशु कुमार विद्यार्थी बनाम स्टेट बैंक आफ बिहार।
- (2) 1997(5) सुप्रीम कोर्ट केस-434-अधि. अभियन्ता (कनाटक सरकार) बनाम के. सोमा रेड्डी व अन्य
- (3) जे. टी. 1996 (2) सुप्रीम कोर्ट-455-स्टेट बैंक आफ हिमाचल प्रदेश बनाम सुरेश कुमार
- (4) ए. आई.आर. 1998 सुप्रीम कोर्ट-1477-अरुण कुमार रीत बनाम स्टेट आफ बिहार।

प्रार्थी एक दैनिक वैतनिक कर्मचारी था जिसके संबंध में सम्माननीय उच्चतम न्यायालय ने ए. आई.आर. 1992-उच्चतम न्यायालय-789 देहली डेवलपमेंट होर्टिकल्चर एम्प्लोईज यूनियन बनाम देहली एडमिनिस्ट्रेशन में यह मत अभिव्यक्त किया है।

"Apart from the fact that the petitioners cannot be directed to be regularised for the reasons given above we may take note of the pernicious consequences to why the direction for regularisation of workmen on the only ground that they have put in work for 240 or more days, has been leading. Although there is Employment Exchange Act which required recruitment on the basis of registration in the Employment Exchange, it has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchanges, and to employ and get employed directly those who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the Employment Register. The court can take judicial notice of the fact that such employment

is sought and given directly for various illegal considerations including money. The employment is given first for temporary periods with technical breaks to circumvent the relevant rules, and is continued for 240 or more days with a view to give the benefit of regularisation knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A Good deal of illegal employment market has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchanges for years. Not all those who gain such back-door entry in the employment are in need of the particular jobs. Though already employed elsewhere, they join the jobs for better and secured prospects. That is why most of the cases which come to the courts are of employment in Government Departments, Public Undertakings or Agencies. Ultimately it is the people who bear the heavy burden of the surplus labour. The other equally injurious effect of indiscriminate regularisations has been that many of the agencies have stopped undertaking casual or temporary works though they are urgent and essential for fear that is those who are employed on such works are required to be continued for 240 or more days have to be absorbed as regular employees although the works are time bound and there is no need for workmen beyond the completion of the works undertaken. The public interests are thus jeopardised on both counts."

प्रार्थी एक दैनिक वैतनिक कर्मचारी था अतः यदि उसे पुनः स्थापित किया जाता है तो इसी रूप में पुनः स्थापित होगा तथा उसकी नियुक्ति भर्ती व चयन की प्रक्रिया करके नहीं हुई थी अतः इसकी प्रत्येक संभावना है कि पुनः स्थापन पर उपरोक्त तरह की विपत्तियाँ जटिलताएँ व कठिनाई उत्पन्न होगी।

धारा 25-एफ के उल्लंघन के मामले में पुनः स्थापित की अनुतोष प्रदान की जा सकती है परन्तु प्रत्येक मामले में पुनः स्थापन की ही अनुतोष प्रदान की जावे ऐसा आवश्यक नहीं है उपर्युक्त मामलों में उपर्युक्त तथ्यों व आधारों पर पुनः स्थापन से भिन्न अनुतोष भी प्रदान की जा सकती है तथा शायद कुछ मामलों में ऐसा भिन्न अनुतोष प्रदान किया जाना आवश्यक उचित व अपेक्षित भी हो सकता है। इस तरह के मामलों में एक मुष्ट क्षतिपूर्ति राशि प्रदान किया जाना एक उचित वैकल्पिक अनुतोष हो सकता है। सम्माननीय उच्चतम न्यायालय ने निम्नांकित मामलों में कुछ इसी तरह का अभिमत व्यक्त किया है :—

- (1) 1995 एस.सी.सी. (एल. एण्ड एस.) 529-सुरजीत घोष बनाम यू. को. बैंक।
- (2) 1995 एस.सी.सी. (एल. एण्ड एस.) 142-रोलस्टन चोहान बनाम सेंट्रल इण्डस्ट्रियल ट्रिब्यूनल।
- (3) एल.एन.जे. 1996 (1)-637-रजवंत सिंह रेवत बनाम दी डिस्ट्रिक्ट फूड एण्ड सप्लाय कंट्रोलर फिरोजपुर व अन्य।
- (4) एल.एन.जे. 1996(1)-544-गदड़बा कोपरेटिव मार्केटिंग कम प्रोसेसिंग सोसाइटी लि. बनाम प्रेसाईडिंग ऑफिसर लेबर कोर्ट।
- (5) 1995 एस.सी.सी. (एल. एण्ड एस.) 141-गुजरात स्टेट रोड ट्रांसपोर्ट कारपोरेशन व अन्य बनाम मुलुआमरा।

(6) 1995 एम.सी. सी. (एन. एण्ड एम.) 573-
संयुक्त अहम दुसैनी बनाम आन्ध्रा बैंक

इस तरह दैनिक दैनिक कार्य पर रखना वर्ष 1997 में पूरी तरह से समाप्त कर दिया गया। यह निश्चित है। सन 1993 के बाद से अर्थात् प्रार्थी की सेवा समाप्त होने के बाद में प्रार्थी के स्थान पर किसी अन्य को रखा गया हो, या ऐसा कोई कनिष्ठ समाचार हो यह प्रार्थी स्वयं ने नहीं बताया है। सेवा समाप्त हुए अब लगभग छः वर्ष होने जा रहे हैं। ऐसा भी नहीं प्रतीत होता कि प्रार्थी इस अवधि में व अवलोक किंसा भी अन्य नियोजन में नहीं रहा हो। यद्यपि ऐसा प्रष्ट करना विपक्षी का दायित्व है परन्तु प्रार्थी ने भी अपने अपय-पत्र में ऐसा निष्चिन्त नहीं बताया है कि वह बेरोजगार रहा। इसके अतिरिक्त जीवन के 22 में 30 वा की आयु में 6-7 वर्षों तक कोई सक्षम व्यक्ति बिना कार्य के या निष्क्रिय रहे ऐसा नहीं माना जा सकता है यदि ऐसा हुआ है तो श्रम उसकी कार्यक्षमता के लिए संभार इस उत्पन्न हो सकते हैं। नियोजन में विशेषज्ञों से विधि के अन्तर्गत संस्थापित उपक्रमों में नियोजन संबंधी भर्ती व चयन की निर्धारित प्रक्रिया व नियमों की पालना किया जाना अत्यन्त आवश्यक व अपेक्षित है। इन सब तथ्यों को देखते हुए न्यायालय की राय में प्रार्थी को पुनर्स्थापन की अनुमति दिये जाने का कोई औचित्य नहीं है तथा 25-एफ का उल्लंघन करते हुए उसकी सेवाएं समाप्त करने के परिणाम-स्वरूप उसे एक मुश्किल उचित क्षतिपूर्ति राशि दिलाई जानी चाहिये।

क्षतिपूर्ति राशि निर्धारण में कई तथ्य सहायक हो सकते हैं जैसे सेवा अवधि कार्य तथा नियोजन की प्रकृति दिया जा रहा पारिश्रमिक यदि विधि के प्रावधानों की पालना की जाती तो तत्समय देय राशि तथा अब ऐसा करने पर देय राशि यदि पुनर्स्थापित किया जावे तो पूर्व भांति की राशि वर्तमान में उस कार्य के लिए पारिश्रमिक-नियोजक के यहां कार्य की स्थिति उस सीमा तक नियोजन की उपलब्धता तथा प्रार्थी का नियोजन तथा इतनी आय के लिए अन्य नियोजन की उपलब्धता इत्यादि।

प्रार्थी के विवरण के अनुसार ही उसे 30/- रुपये प्रतिदिन महीने के 25 दिन के लिए दिये जाते थे प्रार्थी ने 31-3-90 का एक परिपत्र प्रस्तुत किया है जिसके अनुसार ऐसे कर्मचारियों को 41/- रुपये प्रतिदिन न्यूनतम देय है।

समान तथ्यों को देखते हुए यदि प्रार्थी को पुनर्स्थापित किया जाता तो भी वह दिनांक रेफरेंस से अगस्त 97 से अब तक 21 माह की अवधि का लगभग 20 प्रतिशत ही पूर्व भांति के रूप में प्राप्त करता जो लगभग तीन-साढ़े तीन हजार रुपये होते हैं। प्रार्थी की सेवा कुल एक वर्ष की ही थी यदि 25-एफ के प्रावधानों के अनुसार राशि दी जाती तो यह राशि उस समय 1300-1500 के बीच होती जो मुद्रा-स्फीति व प्रचलित बैंक व्याज को देखते हुए अब तक 2700-2800 रुपये तक होना माना जा सकता है श्रम चूंकि ऐसे कर्मचारी को सेवा में नहीं रखा जा रहा है यतः यदि श्रम 25-एफ के प्रावधानों के अनुसार राशि देय होती तो अधिकतम कुल पांच माह का वेतन देय होता जो लगभग 5-6 हजार रुपये तक होता। इस सारी स्थिति को देखते हुए प्रार्थी एक आकस्मिक दैनिक दैनिक श्रमिक ही था, प्रार्थी को 23,000/- (तेईस हजार रुपये) दिलाना उचित प्रतीत होता है। नदनुसार यह विवाद अधिविणीत किये जाने योग्य है।

अधिनिर्णय

श्रम मंत्रालय भारत सरकार की विज्ञप्ति सं. एन 12012/320/96/आई.आर. (बी-11) के अन्तर्गत प्रेषित विवाद इस तरह से अधिविनिर्णय किया जाता है कि प्रांच मैनेजर यू. को. बैंक द्वारा प्रार्थी घनण्याम की सेवा समाप्ति दिनांक 2-3-1993 में करना अनुचित एवं अधैधानिक है। परन्तु प्रकरण के तमाम तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी को सेवा में पुनर्स्थापित करने के बजाए एक मुश्किल 23,000/- (तेईस हजार रुपये) क्षतिपूर्ति के रूप में अप्रार्थी नियोजक से प्राप्त करने का अधिकारी घोषित किया जाता है। अप्रार्थी नियोजक द्वारा प्रार्थी को उन 23,000/- (तेईस हजार रुपये) की राशि अदा कर दिये जाने पर उसके प्रार्थी के प्रति वर्तमान श्रमिक सार्वे दायित्व समाप्त हो जायेगे। इसके अतिरिक्त अन्य कोई अनुमति प्रार्थी प्राप्त करने का अधिकारी नहीं है। इस अधिविनिर्णय की प्रकाशनार्थ श्रम मंत्रालय भारत सरकार, नई दिल्ली को प्रेषित किया जाये।

यह अधिविनिर्णय आज दिनांक 19-5-1999 को न्याया-लय में हस्ताक्षर कर सुनाया गया।

चांदमल गोतला, न्यायाधीश

